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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Federal Communications Commission  
Office of the Secretary  
Attn: Broadcast Flag Certifications  
c/o Natek, Inc.  
236 Massachusetts Avenue, NE  
Suite 110  
Washington, DC 20002

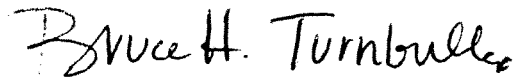
**Re: Digital Content Protections Technologies and  
Recording Methods to be Used in Covered  
Demodulator Products – D-VHS Technology**

Dear Sir or Madam:

Enclosed please find a Broadcast Flag Certification submission on behalf of Victor Company of Japan ("JVC").

Please do not hesitate to contact me at the telephone number above if you have any questions concerning this submission.

Sincerely,



Bruce H. Turnbull

cc: Chief, FCC Media Bureau

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of: )  
 )  
Digital Content Protection Technologies and )  
Recording Methods to be Used in Covered )  
Demodulator Products )  
 )  
**D-VHS Technology** )

**CERTIFICATION OF  
VICTOR COMPANY OF JAPAN, LIMITED ("JVC")  
FOR APPROVAL OF ITS "D-VHS" FORMAT  
AS A DIGITAL CONTENT PROTECTION TECHNOLOGY  
AND RECORDING METHOD  
TO BE USED IN COVERED DEMODULATOR PRODUCTS**

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## **Introduction and Summary**

“D-VHS” (sometimes referred to as “Digital-VHS”) is a digital video recording and playback format that can record and play back either standard definition (“SD”) or high-definition (“HD”) digital video content on removable D-VHS cassettes. It is also fully backward-compatible, and can record and play back analog video content on removable VHS or S-VHS cassettes. Insofar as it is used to record analog content, D-VHS is compliant with 17 U.S.C. § 1201(k) (effective April 28, 2000).

Victor Company of Japan, Limited (“JVC”) is the sole and exclusive licensor of the D-VHS format and the stylized D-VHS Logo Trademark. JVC is the owner of, or has the right to sublicense, the patents necessary to implement the D-VHS specifications for the manufacture of D-VHS products. JVC is not aware of any relevant patents necessary for the manufacturer of D-VHS products in conformity with the D-VHS specifications that are not within the JVC licensed patents. JVC is the owner of all trade secrets and confidential technical “know-how” necessary to implement the D-VHS specifications for the manufacture of D-VHS products.

As a result of numerous consultations with content owners, JVC developed and imposed on itself and all of its licensees certain basic D-VHS Copy Protection Requirements that apply to all D-VHS products manufactured for sale anywhere in the world. These Copy Protection Requirements mandate that content that is received by a D-VHS recorder will be protected in accordance with specified forms of copy control information (“CCI”) associated with the content upon input into the D-VHS recorder.<sup>1</sup> Thus, content arriving at the D-VHS recorder with CCI indicating that the content is not to be copied will not be copied by the D-VHS recorder, and content arriving with recognized CCI indicating that the content is permitted to be copied but that the copy is itself not to be copied is recorded with up-dated CCI to indicate the “no more copies” status of the D-VHS recorded content.

Output controls are also imposed, so that content that is to be protected against further recording or against unauthorized retransmission (e.g., over the Internet) is passed through outputs with specified forms of protection (e.g., digital outputs protected with HDCP or DTCP protection and analog outputs with appropriate Macrovision and/or CGMS-A signals added). Certain additional copy protection requirements are imposed on specific D-VHS models designed for playback of the optional “D-Theater” platform for prerecorded high-definition content.

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<sup>1</sup> The D-VHS Copy Protection Requirements specify that content received through analog inputs must be examined for both Macrovision’s technology (indicating that content is not to be copied at all) and CGMS-A signals (indicating that content is not to be copied or may be copied but that the copy is not to be copied). Content received through Digital Transmission Content Protection-protected digital inputs is treated in accordance with the CCI as specified by the DTCP specifications. Content received through an HDCP-protected input is not to be copied at all.

As described more fully below, JVC has recently supplemented the requirements applicable to D-VHS products that are integrated with ATSC tuners. JVC has made these requirements applicable to all products that contain an ATSC tuner, regardless of the country for which they are manufactured or sold, given that the United States is the largest market that has adopted the ATSC standard and in order to alleviate the possibility of "noncompliant" D-VHS/ATSC products being shipped into the United States from other ATSC countries. Specifically, such D-VHS products must detect the broadcast flag any time that content is directed to the D-VHS recording function of the product. Any content containing the flag, indicating that protection against "indiscriminate redistribution" is required, is required to be recorded in a manner that ensures that the "no redistribution" result is attained through insertion of appropriate output protections.

JVC, as the sole proprietor of the D-VHS format, has imposed these requirements as a matter of the D-VHS format license. Thus, all licensees of the D-VHS format (as well as JVC itself) are required to comply with both the basic Copy Protection Requirements and, effective no later than July 1, 2005 (and earlier if possible), for all D-VHS products that contain an ATSC tuner, including (but not limited to) those that are manufactured for, exported to or imported into, or sold in the U.S. market, to comply with the additional "broadcast flag"-related requirements. Licensees who manufacture D-VHS products on an OEM basis are required to notify their customers of the new "broadcast flag" requirements where applicable.

JVC has a long track record of vigorously enforcing its format-based license requirements, specifically including the VHS format requirements. JVC is fully committed to a similar vigorous enforcement of the requirements applicable to its D-VHS format, including specifically the content protection and broadcast redistribution requirements applicable to products in that format. This means both that licensees will be subject to strict compliance review and enforcement actions where compliance is not achieved and that non-licensees producing D-VHS products will be subject to intellectual property (patent and other intellectual property ("IP")) enforcement actions.

Accordingly, in this submission, JVC certifies that D-VHS is a protection technology meeting the requirements of the FCC's regulations adopted on November 4, 2003 and requests Commission's approval of D-VHS as an authorized recording method pursuant to those regulations.

Finally, as it did prior to the effective date of Section 1201(k), JVC will publish notice in its periodic VHS Standard Center Report that relevant D-VHS products (*i.e.*, all D-VHS products that also incorporate an ATSC tuner and specifically including those manufactured for, exported to or imported into, or sold in the U.S.) must be compliant with Supplement A to the D-VHS Copy Protection Requirement, incorporating specific requirements to conform such products to the Commission's rules. The VHS Standard Center Report is sent not only to JVC's licensees, but also to numerous other people in the video industry throughout the world.

## **Responses to Specific Requirements**

### **I. General Description of D-VHS Technology, Redistribution Control and Patents**

#### **A. General Description**

As indicated above, D-VHS is a format for the storage of audio-visual content onto specially formatted tapes. JVC has developed detailed specifications for the manufacture of D-VHS tapes and the equipment to allow consumers to record content onto D-VHS tapes and play back content previously recorded onto D-VHS tapes. Use of those specifications is essential in order to manufacture either tapes or equipment compatible with the D-VHS format. The specifications utilize a number of technologies, developed by JVC, including a proprietary variant seed scrambling method for content to be recorded onto the D-VHS tape, developed by JVC. JVC has been granted a number of patents on these technologies in the United States, Japan, Europe and elsewhere in the world.

As a content protection matter, JVC has imposed a number of specific obligations on manufacturers of D-VHS recorders through its license to use its patents and other intellectual property associated with the D-VHS format. Failure to abide by the Copy Protection Requirements is a violation of JVC's license for D-VHS-related IP. Since JVC's patents are essential for the manufacture of D-VHS products, any manufacture of such products without license would involve infringement of JVC's patents and would be subject to enforcement of JVC's rights through infringement claims and, if necessary, litigation.

#### **B. Scope of Redistribution Control**

Redistribution control of content played back from D-VHS tapes is accomplished by limiting the output of content contained on such tapes according to codes that are set at the time of recording of the content. Upon playback in a D-VHS device, the content is checked by the device to determine whether codes indicate that content protection has been asserted. If so, the content is permitted to be played back through only specified outputs. The only digital outputs permitted for content protected D-VHS recorded content are those that are protected with HDCP or DTCP technologies. Analog outputs may also be used to play back protected content, but such outputs must utilize CGMS-A signaling and signaling for the analog protection system (triggering the use of Macrovision's proprietary content protection technologies on applicable outputs in subsequent, or "downstream," products), and, for standard definition analog outputs, where the content is further marked to trigger it, Macrovision's proprietary content protection technologies.

The key to redistribution control is, thus, the marking of content to show that it is to be protected. That marking is contained in codes inserted at the time of recording onto D-VHS tape and is based on information that is provided in the inputs to the D-VHS recording function. With respect to content that is ATSC formatted, JVC's recently adopted Copy

Protection Requirement Supplement A mandates all such content to be checked to determine whether the rc\_descriptor is present in the content. If so, then the content is required to be marked as protected when recorded onto D-VHS tape, and redistribution control is thereby accomplished as described above.

### **C. Patents**

JVC has been granted, or has applied for, over 90 patents in the United States applicable to the D-VHS format. Attached to this document is a sample list of specific patents issued to JVC in the United States that are essential to the design and manufacture of products incorporating D-VHS technology (Appendix A). In addition, JVC has been granted similar patents in a variety of other countries, including Japan, the European Union, Korea, Hong Kong, China, Taiwan, and Malaysia.

JVC notes that any product that emulates or mimics a D-VHS product's functionality cannot be manufactured without use of JVC's patents, and, accordingly, the patents are a strong base for enforcement against non-licensed (and, hence, non-compliant) products.

## **II. Detailed Analysis of the Level of Protection Afforded by D-VHS Technology**

### **A. License Provisions**

The relevant license and content protection provisions are attached to this Certification as Appendices. JVC has effected compliance with the Commission's "broadcast flag" regulations in the following simple, clearcut manner:

1. All D-VHS VCRs worldwide must be manufactured in accordance with certain basic "D-VHS Copy Protection Requirements" (Appendix B).
2. JVC's "D-VHS Video Cassette Recorder License Agreement" (Appendix C) provides in Article 10(1) that all licensees "must comply fully with all national laws, decrees and regulations adopted" to further the objectives of the World Intellectual Property Organization Copyright Treaty "insofar as those laws, decrees and regulations are applicable to Licensed Products." Article 10(2) of the License Agreement further provides that JVC may issue copy protection amendments from time to time to further these objectives. (These provisions of course also apply to JVC itself.)
3. In response to the Commission's "broadcast flag" regulations, JVC has issued "D-VHS Copy Protection Requirements Supplement A: Integrated Product Broadcast Protection (ATSC)" to ensure that all D-VHS VCRs with integrated, or built-in, ATSC tuners are compliant by July 1, 2005, and earlier if possible (Appendix D).
4. JVC has sent notice of Supplement A to all of its licensees (Appendix E). This notice provides, in addition, that (a) licensees must notify any "OEM" customers of the Commission's

regulations, and (b) applies Supplement A to all ATSC countries in order to avoid any possible problems created by transshipments.

Two other elements of the overall license approach are relevant here as well. First, in the Content Beneficiary Agreement, JVC has committed that changes to any of the Copy Protection Requirements will be subject to a careful process under which the Content Beneficiary will be notified of proposed changes and given an opportunity to object to any changes considered to reduce the content protection level. Second, D-VHS products are prohibited from being manufactured as computer peripherals, so that data storage uses of a D-VHS recorder cannot be used to mask a circumvention of the basic Copy Protection Requirements. If, in the future, a data storage function for D-VHS format products is considered to be of value, JVC has committed to make products with such functions to be incompatible with D-VHS products that record video content (by “effectively frustrating” any attempt at use for video recording/playback purposes. (A copy of the D-VHS Beneficiary Agreement for Providers of Recordable High-Definition Content is attached hereto as Appendix F).

## **B. Applicability of Functional Criteria**

### **1. Level of Security**

D-VHS employs JVC’s proprietary variant seed method of scrambling content recorded onto D-VHS cassette tapes. This ensures that these tapes will play only on devices that utilize JVC’s proprietary D-VHS format specifications. On playback through digital outputs, content marked for protection is permitted to be transmitted only through HDCP or DTCP protected connections. On playback through analog outputs, content marked for protection is permitted to be transmitted only through specified outputs and only when CGMS-A signals are employed and, where so indicated in the trigger information, Macrovision’s proprietary content protection signals are employed.

In short, playback of protected content from D-VHS tapes employs the technologies that are widely accepted in the marketplace today. Assuming that the FCC approves DTCP and HDCP as authorized digital output protection technologies, playback of content marked for protection from D-VHS cassette tapes will accomplish the redistribution control pursuant to the Commission’s “broadcast flag” regulations.

To ensure that the basic requirements are effective, the Copy Protection Requirements also contain robustness requirements (see Article 10, section 2 of the D-VHS Video Cassette Recorder License Agreement, previously attached hereto as Appendix C). This provision imposes an obligation to design and manufacture products so as to effectively frustrate the alteration or circumvention of the requirements stated in Sections 2 and 3 of the D-VHS Copy Protection Requirements. The provision also specifically prohibits the use of clear digital signal pathways, jumpers, switches, specific traces that can be cut, or code entry, service menus or remote control functions by which content protection requirements may be defeated.



## **2. Scope of Redistribution Control**

See description above, section I. B.

## **3. Means of Authentication**

As a format, rather than an added content protection technology, D-VHS employs a form of implicit authentication. That is, in the D-VHS recording mode, content is recorded onto the tape in strict conformity with the D-VHS format standards. During playback, D-VHS VCRs will play only content that has been so recorded; they will not play content that has been recorded other than in strict conformity with the D-VHS format standards. In addition, JVC's property variant seed scramble/descramble system further ensures that only content recorded in strict conformity with the D-VHS format standards can be played back on D-VHS VCRs.

## **4. Upgradeability/Renewability/Ability to Revoke Compromised**

### **Devices**

D-VHS does not employ means for upgrading or renewing specific products already manufactured, in large part because D-VHS products are consumer electronics products rather than computer-based products and, as such, are not readily amenable to upgrading or similar techniques. D-VHS also does not employ techniques for revocation of compromised devices. However, since D-VHS is a format, the concept of "compromised" devices is not readily applicable to D-VHS. If D-VHS format devices are produced in a manner that is not in conformance with the Copy Protection Requirements, JVC has committed itself to a vigilant enforcement program, both as to licensees failing to abide by the terms of their D-VHS licenses and as to non-licensees producing products infringing JVC's patents and other IP.

## **5. Interoperability**

All D-VHS format consumer recorders and players are interoperable. That is, a D-VHS format consumer recorder will record onto D-VHS cassette tapes in a uniform manner that allows playback of the recorded content by any D-VHS format player device. D-Theater cassette tapes that are distributed in prerecorded form and are playable in all D-Theater equipped D-VHS products. (The brochure for the most recently introduced D-VHS/D-Theater model is attached as Appendix G.) Since the Copy Protection Requirements are imposed as a format requirement and there is no current way of distinguishing between a tape used for audio-visual recording and one used for data recording, D-VHS products are prohibited from being used as computer peripherals or otherwise for the purpose of general data storage. D-VHS recording and playback of audio-visual content may be accomplished in combination with a computer if secure digital connections protected with DTCP are used.

### **III. Information on Approval and Licensing of D-VHS Technology**

#### **A. Content Owners and Program Distributors**

In its development of the D-VHS format, JVC was aware of the need to incorporate content protection in order to gain marketplace support from content owners. Accordingly, in the period beginning in January, 1999, JVC met on numerous occasions with individual motion picture companies and with groups of company members of the Motion Picture Association of America, including meetings with MPAA's content protection group. In these meetings, JVC developed both an understanding of these companies' content protection requirements and explained its development of elements of the D-VHS format to respond to those requirements.

On April 26, 2000, JVC submitted detailed documents describing the technological and legal frameworks of the D-VHS content protection system to DTLA and the MPAA, and those documents were circulated to MPAA members. JVC met with the MPAA content protection group to discuss those documents, and thereafter continued discussions with individual motion picture companies concerning the appropriate content protection requirements and related legal protections applicable to D-VHS products. Various suggestions were received, and JVC made a number of changes to the documents to respond to those suggestions. A revised set of documents was then submitted to DTLA, the MPAA and its members on March 7, 2002. A small number of further comments were received in response to the revised set of documents, and JVC made additional changes.

The further revised documents were then submitted to DTLA and the MPAA on August 8, 2002, and circulated to its members to determine whether there were any additional comments, and after further informal discussions, it was determined that there were only a few minor suggestions for further modifications. Accordingly, JVC was able to reach agreement with four motion picture companies to release prerecorded HD D-VHS cassettes of theatrical motion pictures on the D-Theater platform. The four companies include two MPAA members (Twentieth Century Fox and Universal Studios) and two other companies (Artisan and DreamWorks).

A press release announcing these agreements was issued on January 30, 2002. (Appendix H). In that release, one studio executive notes that consumer recording of high definition television is a feature of D-VHS products that combines with others to make the product "very attractive." On January 6, 2004, an additional film company, American Zoetrope, announced that Francis Ford Coppola's "One From the Heart" would be released on the D-Theater platform. In its press release, American Zoetrope noted that D-VHS/D-Theater is "currently the only high-definition format available that offers the growing number of consumers with high definition televisions the quality they have been seeking," while at the same time providing "a state-of-the-art level of security demanded by content providers in the digital era" (Appendix I). To date, 69 titles have been released as prerecorded D-VHS cassette tapes, and an additional nine titles are forthcoming shortly. (A list of these titles is attached as Appendix J).

Moreover, in both Congressional testimony and public speeches, Peter Chernin, the President and Chief Operating Officer of News Corporation, of which Twentieth Century Fox is a subsidiary, has expressed his company's support of the D-VHS format because it provides the "basic level of security for digital content" necessary to advance the DTV transition. The relevant excerpts from Mr. Chernin's testimony and speeches are collected in Appendix K.

In the course of the Broadcast Protection Discussion Group meetings during the winter and spring of 2002, JVC put forward D-VHS as a technology meeting the broadcast redistribution protection requirements that were discussed in that group. At the point that the criteria to determine what technologies meet the broadcast redistribution protection requirements was presented as a joint proposal from MPAA members and various other companies, all MPAA member studios indicated their view that D-VHS meets the criteria in the joint proposal. This view was reiterated in the MPAA's submission to the Commission in the initial Broadcast Flag rulemaking proceeding. *See* Joint Comments of the Motion Picture Association of America, et al., MB Docket 02-230 at 26 (December 6, 2002).

As described in more detail below, JVC has also received approval from the Digital Transmission License Administrator, LLC to permit content protected using DTCP to be recorded by D-VHS as an approved secure storage technology for such content. DTLA is separately describing its process for approving secure storage technologies under its change process, but for present purposes, it is worth noting that this process includes consultation with content companies that have signed the DTLA Content Protection Agreement. JVC understands that DTLA's provisional approval of D-VHS as a secure storage technology was subject to that change process, and JVC takes that as a statement that DTLA's content licensees approve D-VHS as a secure storage technology for DTCP protected content.

## **B. Product Manufacturers**

JVC has so far reached final license agreements with several companies and continues negotiations with a number of other companies. The following companies have offered D-VHS recording products in the marketplace (principally in the United States and Japan) – JVC, Panasonic, Mitsubishi, Hitachi, Sony, Toshiba, and Marantz.

DTLA has granted provisional approval for D-VHS recorders to receive and record DTCP protected audio-visual content. *See* DTLA website notice (Appendix L). The "provisional" nature of the approval relates to the need to complete the DTLA review process based on up-dated information provided by JVC. To JVC's knowledge, the "provisional" nature of the approval is expected to become "final" without any modification to JVC's requirements or other actions. This means that all licensees of DTCP technology may use D-VHS recorders to receive and record DTCP-protected content, and JVC expects that this will add to the marketplace attractiveness of D-VHS as the only currently available secure consumer recording format for HD audio-visual content, in particular in the form of removable media.

### **C. Consumers**

The Commission has appropriately asked to what extent technologies certified to be effective to prevent indiscriminate redistribution of digital broadcast content also permit consumers to use and enjoy unencrypted digital broadcast content. As the format that is most like the universally used VHS analog tape format, D-VHS should be completely "user friendly" for consumers. Content marked for redistribution control will be copied onto D-VHS tapes and played back in any D-VHS playback device. Although, such content will be marked as "copy restricted" in CGMS in the format information area specified by the D-VHS specifications for preventing unencrypted digital transmission, D-VHS products that are capable of recognizing "Encryption Plus Non-assertion" status could make additional copies using the initial copy as the source for an unlimited number of further copies. D-VHS Copy Protection Requirements permit such implementation to comply with "Encryption Plus Non-assertion" information.

### **IV. License Terms and Conditions**

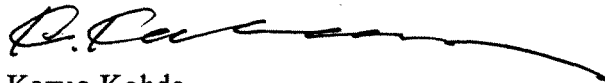
Licensing of D-VHS technology is available to manufacturers desiring to make D-VHS cassette tapes and D-VHS recorders and players. Two forms of content beneficiary agreement are also available to content companies, one for content companies seeking only certain rights regarding protection of their content (direct and third party beneficiary rights to enforce the content protection elements of D-VHS technology, change review/approval rights in the event of any modifications to D-VHS technology related to content protection, etc.) and another for content companies which are also releasing prerecorded high-definition content using the D-Theater platform. (Since the first of these is relevant to recording of Unscreened or Marked Content, that version of D-VHS content beneficiary agreement has previously been attached as Appendix F. The separate D-VHS Beneficiary Agreement for Providers of Prerecorded High-Definition Content also contains these recording provisions, but then adds provisions concerning copy protection for HD D-VHS tapes designed for playback on the optional D-Theater platform.)

Licenses to manufacturers are available on reasonable and non-discriminatory terms, recognizing the following points concerning D-VHS. Since D-VHS is a format, not an added content protection technology, companies must license the format itself and then are bound to employ the required content protections. Further, since D-VHS is a follow-on format to the original VHS format and products must be backwards compatible with the original format, only licensees of the VHS format are permitted to license D-VHS technology. There are no "standard prices" as such for D-VHS. Rather, pricing is determined on a licensee-by-licensee basis, based in large part on the nature and extent of each licensee's patents that are granted back to JVC. While JVC, as the sole proprietor of the D-VHS licensing regime, reserves the right to refuse to license D-VHS to any particular entity where such entity has been shown to be unreliable in terms of compliance with format or content protection requirements or in terms of payment of required fees, in general JVC offers the D-VHS format license to any VHS-licensed entity that is prepared to sign that license. Having said all of this, we believe that the critical point is that the fees and other terms have been accepted in the marketplace. Each licensee has been able to

reach agreement with JVC, and no objections to license terms or fees have been raised by any licensee or prospective licensee.

For all of the foregoing reasons, JVC respectfully requests the FCC to approve D-VHS as an approved digital content protection recording method pursuant to the "Broadcast Flag" regulations, 47 CFR §§ 73.9000-9008. Please contact one of the counsel listed below with any questions you may have.

Respectfully submitted,



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## JVC/D-VHS Appendices

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- K: Excerpts from Congressional Testimony and Public Speeches by  
Peter Chernin, President and COO, News Corporation,  
concerning D-VHS Format
- L: DTLA Provisional Approvals for Persistent Storage and  
Digital Output Reprotection Technology

### CONFIDENTIAL APPENDIX

1. D-VHS Cassette Recorder License Agreement

Extracts from  
D-VHS VIDEO CASSETTE RECORDER  
LICENSE AGREEMENT

This Agreement made and entered into as of \_\_\_\_ day of \_\_\_\_\_, 2001 by and between,  
VICTOR COMPANY of JAPAN, LIMITED, a corporation duly organized and existing under the laws of Japan having its principal office at 12, 3-chome Moriya-cho, Kanagawa-ku, Yokohama 221-8528, Japan (hereinafter referred to as "Licensor") and \_\_\_\_\_, a corporation duly organized and existing under the laws of \_\_\_\_\_ having its principal office at \_\_\_\_\_ (hereinafter referred to as "Licensee").

WITNESSETH:

WHEREAS, Licensor developed a "D-VHS" video cassette having 12.65 mm (1/2 inch) width magnetic tape for "D-VHS" video cassette recorder and/or reproducer for digital bit stream recording and/or reproducing including recording and/or reproducing of television signals primarily for home use, and is in the possession of certain technical information including "D-VHS System Standards", as well as patent, utility model and/or design patent rights applicable to such video cassette recorders and/or reproducers;

WHEREAS, Licensor has obtained from its affiliated company, MATSUSHITA ELECTRIC INDUSTRIAL COMPANY, LIMITED, a corporation organized and existing under the laws of Japan, and having its principal office at 1006, Oaza Kadoma, Kadoma-city, Osaka, Japan (hereinafter referred to as "MEI"), a right to grant any third party a non-exclusive sub-license under patent and/or utility model rights applicable to "D-VHS" video cassette recorders and /or reproducers;

WHEREAS, Licensee is desirous of obtaining a license from Licensor, and Licensor is willing to grant Licensee, a right and license to manufacture, sell, use or otherwise dispose of "D-VHS" video cassette recorders and/or reproducers under the technical information relating to "D-VHS" video cassette recorder and/or reproducer and the patent, utility model and/or design patent applicable to "D-VHS" video cassette recorder and/or reproducer which are owned or will be owned by Licensor and/or MEI,

WHEREAS, Licensor respects the rights of copyright owners and recognizes the imperative need to secure copy protection standards for a digital video recording system such as "D-VHS" video cassette recorders and/or reproducers and will therefore make its best efforts to ensure that Licensee complies fully with the D-VHS Copy Protection Requirements contained in the "D-VHS System Standards" (hereinafter referred to as "D-VHS-CPR"),

WHEREAS, Licensee acknowledges and accepts Licensor's policy on copy protection



standards and assumes responsibility for complying with the D-VHS-CPR .

NOW, THEREFORE, Licensor and Licensee hereby agree as follows:

#### Article 1. Definitions

For the purpose of this Agreement, the following terms shall have respective meanings set forth below:

- (1) "Licensed Product" shall mean a finished product of D-VHS Video Cassette Recorder designed for home and educational use, using D-VHS Video Cassette (as defined hereinafter) and conforming to the D-VHS System Standard specified in Exhibit A attached hereto, and at least having recording / reproducing (playing back, not copying) function based upon VHS System Standard.
- (2) "D-VHS Video Cassette" shall mean cassette containing therein magnetic tape of 12.65 mm (1/2 inch) width conforming to D-VHS System Standard.
- (3) "D-VHS Video Cassette Recorder" shall mean recorder and/or reproducer for recording and/or reproducing (playing back, not copying) digital video signals using magnetic head(s) on or from magnetic tape installed in D-VHS Video Cassette.

#### Article 2. Grant of License

- (4) The license granted under the first paragraph of this Article shall not be extended to such D-VHS Video Cassette Recorders used as computer peripherals such as data back up with insecure interface and such D-VHS Video Cassette Recorders are licensed for playback and transfer of copyrighted video content from D-VHS Video Cassettes only by operation of interfaces subject to any approved copy protection technology.
- (5) The license granted under the first paragraph of this Article shall not include the right to manufacture D-VHS Video Cassette Recorders capable of playing back prerecorded D-VHS/D-Theater cassettes that have been encrypted with Licensor's proprietary encryption system for such cassettes. The right to manufacture D-VHS Video Cassette Recorders capable of playing back such encrypted prerecorded cassettes may be obtained only by means of a separate, supplemental license agreement.

#### Article 10. Compliance with Copyright Law

- (1) Licensee shall comply fully with all national laws, decrees and regulations adopted pursuant to Article 11 of the World Intellectual Property Organization Copyright Treaty, 36 I.L.M. 65, 71 (December 20, 1996), insofar as those laws, decrees and regulations are applicable to Licensed Products.

(2) In order to secure the principle provided for in Article 10 (1), Licensee shall comply fully with the requirements set forth in this Article 10 and D-VHS-CPR, as may be amended by Licensor from time to time, to protect copyrighted contents against unauthorized copying.

- (a) Licensee shall make the formatting process specified in the D-VHS System Standard, including but not limited to, error code correction (ECC) and scrambler portions, in one chip hardware IC and shall not use software solution.
- (b) Licensed Products (including Combination Products as set forth in Section 3.4 of D-VHS-CPR) shall be designed and manufactured so as to effectively frustrate the alteration or circumvention of the requirements stated in Sections 2 and 3 of the D-VHS-CPR.
- (c) Licensed Products shall not include (i) clear digital signal pathways, (ii) jumpers, switches, specific traces that can be cut off, or (iii) code entry, service menus or remote-control function; in each case by which content protection requirements hereunder can be defeated.

(3) If there is a standard for watermark technology for SD input that is either required by the Digital Transmission Licensing Administrator LLC ("DTLA") or agreed upon as a multi-industry consensus, Licensor will amend the D-VHS-CPR, with a reasonable transition period, to incorporate such watermark technology into Licensed Products, provided that such watermark technology is compatible with the D-VHS System Standards and D-VHS-CPR and is not unduly burdensome for Licensed Products. Similarly, if there is a standard for watermark technology for HD input that is either required by the DTLA or agreed upon as a multi-industry consensus, Licensor will amend the D-VHS-CPR, with a reasonable transition period, to incorporate such watermark technology into Licensed Products, provided that such watermark technology is compatible with the D-VHS System Standards and D-VHS-CPR and is not unduly burdensome for Licensed Products. Licensor shall in no event amend the D-VHS-CPR to incorporate more than one watermark technology each for SD input and HD input. For the purpose of this Article 10 (3), whether a watermark technology is "compatible with the D-VHS System Standards and D-VHS-CPR and is not unduly burdensome" shall be evaluated separately for each of the following product categories: (i) Licensed Product with MPEG encoder, (ii) Licensed Product with MPEG decoder and (iii) Licensed Product without MPEG encoder/decoder. Implementation of the applicable watermark technology shall become mandatory as to each such product category only as and when implementation of such watermark technology becomes practicable for that particular product category.

- (a) Phase In Period - Until such time that Licensor has amended the D-VHS-CPR to require the implementation of watermark technology for SD Analog Inputs, Licensee shall not knowingly design or knowingly develop a Licensed Product or a component thereof for the primary purpose of stripping, interfering with or obscuring any Presently Known Watermark Technology, or knowingly promote or knowingly advertise or knowingly cooperate in the promotion or advertising of Licensed Products or

components thereof for the purpose of stripping, interfering or obscuring such watermarks. For purposes of this section, a "Presently Known Watermark Technology" shall mean each of the technologies submitted by the Galaxy group of companies and by the Millennium Group to the DVD Copy Control Association, Inc. in August 1999, and the technology defined as "ARIS/SOLANA-4C," as required by the SDMI Portable Device Specification, Part 1, Version 1.0 (July 8, 1999). Licensor shall amend the D-VHS-CPR to impose similar obligations with respect to stripping, interfering with or obscuring watermark technologies for HD Analog inputs as such technologies become sufficiently widely known to merit the identification of "Presently Known Watermark Technologies for HD Analog."

- (b) Product Features - Section 10(3)(a) above shall not prohibit a Licensed Product from incorporating legitimate features (i.e., zooming, cropping, picture-in-picture, compression, recompression, image overlays, overlap or windows in a graphical user interface, audio mixing and equalization, video mixing and keying, down-sampling, up-sampling, and line doubling, or conversion between widely-used formats for the transport, processing and display of audiovisual signals or data, such as between analog and digital formats and between PAL and NTSC or RGB and YUV formats, as well as other features as may be added to the foregoing list from time to time by Licensor by amendment to this Agreement) that are not prohibited by law, and such features shall not be deemed to strip, interfere with or obscure the Presently Known Watermark Technology.

#### Article 14. Earlier Termination of this Agreement

- (1) If Licensee shall have defaulted in the performance of any of the obligations assumed hereunder, Licensor shall give a written notice to Licensee specifying the default, and if Licensee shall not have rectified such default within sixty (60) days after the receipt of such notice, Licensor may terminate this Agreement immediately by giving a written notice to such effect.
- (2) Notwithstanding the preceding paragraph of this Article, should Licensee have defaulted in the performance of any of the obligations of Article 10 hereunder, Licensor may terminate this Agreement immediately and unconditionally by giving a written notice to Licensee.

#### Article 15. Report and Payment upon Termination

- (3) Notwithstanding the preceding paragraph of this Article 15, if this Agreement is terminated according to Article 14 (2) hereof, Licensee shall discontinue all sale or distribution of any stock of Licensed Products or unfinished products at the time of termination, and destroy such stock immediately and unconditionally.

#### Article 17. Third Party Beneficiary Rights

- (2) AS PART OF THE CONSIDERATION GRANTED HEREUNDER, LICENSEE

ACKNOWLEDGES AND AGREES THAT LICENSOR MAY GRANT WORLDWIDE THIRD PARTY BENEFICIARY RIGHTS TO COPYRIGHT OWNERS WHICH DISTRIBUTE THEIR COPYRIGHTED THEATRICAL MOTION PICTURES IN THE FORM OF COMMERCIAL QUANTITIES OF PRERECORDED D-VHS VIDEO CASSETTES OR THROUGH CHANNELS THAT WILL PERMIT IN-HOME TRANSMISSION OF SUCH CONTENT VIA CONNECTIONS PROTECTED WITH DTCP TECHNOLOGY WHERE CONSUMERS ARE EACH PERMITTED TO MAKE AT LEAST ONE AUTHORIZED COPY OF SUCH CONTENT AT HIGH DEFINITION (HD) IN THE D-VHS FORMAT, AND THAT SUCH COPYRIGHT OWNERS SHALL BE ENTITLED TO BRING A CLAIM OR ACTION TO ENFORCE RIGHTS AGAINST LICENSEE WITH RESPECT TO LICENSEE'S LICENSED PRODUCTS TO WHICH THE COPYRIGHT OWNER HAS MADE ITS CONTENT AVAILABLE. SUCH RIGHTS SHALL BE LIMITED TO SEEKING INJUNCTIVE RELIEF AGAINST THE MANUFACTURE, SALE, USE OR OTHER DISPOSAL OF LICENSEE'S LICENSED PRODUCTS THAT ARE IN BREACH OF ANY OF THE OBLIGATIONS OF ARTICLE 10 OF THIS AGREEMENT, PROVIDED HOWEVER, THAT IF LICENSEE HAS WILLFULLY BREACHED, OR HAS ENGAGED IN A PATTERN OR PRACTICE OF BREACHING SUCH OBLIGATIONS, ATTORNEY'S FEES AND COSTS SHALL BE AWARDED TO THE THIRD PARTY BENEFICIARY COPYRIGHT OWNER. IN THIS CONNECTION, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, LICENSEE AGREES THAT ALL THIRD PARTY BENEFICIARY CLAIMS INSTITUTED PURSUANT TO SUCH RIGHTS AS MAY BE GRANTED BY LICENSOR CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE 17 (2) SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING THAT BODY OF LAW RELATING TO CHOICE OF LAW PRINCIPLES, AND SHALL BE CONDUCTED IN FEDERAL OR STATE COURTS LOCATED IN ANY COUNTY IN THE STATE OF CALIFORNIA. LICENSEE FURTHER HEREBY IRREVOCABLY CONSENTS TO (I) THE EXCLUSIVE JURISDICTION AND VENUE IN THE FEDERAL OR STATE COURTS LOCATED IN THE STATE OF CALIFORNIA, (II) THE SERVICE OF PROCESS OF SAID COURTS IN ANY MATTER ARISING OUT OF THIS ARTICLE 17 (2) BY PERSONAL DELIVERY OR BY MAILING THE PROCESS BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, AT THE ADDRESS AS SPECIFIED IN THIS AGREEMENT OR TO AN AGENT APPOINTED BY LICENSEE FOR PURPOSES OF RECEIPT OF SERVICE OF PROCESS IN THE STATE OF CALIFORNIA. NOTWITHSTANDING THE FOREGOING, NO EXERCISE BY THE THIRD PARTY BENEFICIARY COPYRIGHT OWNER OF SUCH THIRD PARTY BENEFICIARY RIGHTS SHALL BE DEEMED TO CONSTITUTE AN ELECTION UNDER ANY STATUTORY OR OTHER EXTRA-CONTRACTUAL REMEDY OR OTHER RELIEF AGAINST LICENSEE WHICH MAY BE AVAILABLE TO SUCH COPYRIGHT OWNER FOR THE SAME ACT WHICH GAVE RISE TO THE COPYRIGHT OWNER'S EXERCISE OF ITS THIRD PARTY BENEFICIARY RIGHTS.

## **D-VHS COPY PROTECTION REQUIREMENTS**

### **1. Scope**

This standard specifies the requirements for the design of D-VHS recorders for the purpose of protecting copyrighted content from unauthorized copying.

### **2. Effective Copy Control Information**

Effective Copy Control Information ("CCI") shall mean the information that is transferred with the input/output signal or is recorded on the tape to indicate the copy control status of the contents received or transmitted on such signal or recorded on such tape. Specifically, Effective CCI currently shall mean and be limited to the following:

#### **(a) Digital Input / Output**

For digital input or output signals, the CGMS-D information, the Encryption Mode Indicator ("EMI"), as defined in the DTCP technology license issued by the DTLA or such information as is defined in another digital copy control specification providing equivalent protection to video content as that provided by DTCP, as specifically authorized by JVC

#### **(b) SD Analog Input / Output**

For SD analog input or output signals, the Automatic Gain Control copyprotection system, the Colorstripe copy protection system and the CGMS-A information (as defined in IEC 1880 and EIA-702 for NTSC and YUV format signals and in IEC 1880 and ETS 300294 for PAL and SECAM format signals).

#### **(c) HD Analog Input**

For HD analog inputs, a technology, standard and/or specification that is recognized as sufficiently robust and receives widespread acceptance or multi-industry consensus, as specifically authorized by JVC based on such acceptance or consensus. Until such time when JVC defines such technology as an Effective CCI by amending this D-VHS COPY PROTECTION REQUIREMENTS, D-VHS recorders shall not have any HD analog input interface for recording functions.

#### **(d) HD Analog Output**

For HD analog output, CGMS-A and related information

### **3. Recording and Transmission**

D-VHS recorders shall fulfill the following requirements in the recording, playback, and transmission of content.

#### **3.1 Response to Effective CCI on an Input Signal**

If the input signal includes Effective CCI, the D-VHS recorder shall detect and respond in accordance with the signal or information provided, according to the following rules.

**(a) Digital Data**

Where the Effective CCI is provided through digital data, the D-VHS recorder shall refuse to copy any material that is marked "No copies allowed" or "No more copies allowed". Where such data indicate that the material is "One copy allowed", the D-VHS recorder shall record the material with the CGMS information in the Format information area to indicate that "No copies allowed" from the copy that is made in the D-VHS recorder.

**(b) Analog Information**

Where the Effective CCI is provided through CGMS-A information, the D-VHS recorder shall refuse to copy any material that is marked "No copies allowed" or "No more copies allowed". Where the Effective CCI indicates that the material is "One copy allowed", the D-VHS shall update such information to indicate that "No copies allowed" from the copy that is made in the D-VHS recorder.

**(c) Analog Signal**

Where the Effective CCI is provided as part of the content signal in the form of the Automatic Gain Control copy protection system or the Colorstripe copy protection system, the D-VHS recorder shall detect the presence of such Effective CCI and refuse to copy any material containing such Effective CCI.

Future systems for supplying Effective CCI may require additional means of reading, responding, and up-dating such Effective CCI, and D-VHS recorders shall conform to such requirements as they are incorporated into these Copy Protection Requirements.

**3.2 Output of Content through Digital Transmission**

Where the Effective CCI indicates that further copying of the content is prohibited or otherwise controlled, any digital output of such content by the D-VHS recorder shall be done only through the interface protected by DTCP and/or HDCP. When the output is done through DTCP-protected interface, EMI and related information shall be implemented. In the future, if other forms of effective digital protection technologies are identified for use with digital outputs, such other forms may be authorized by JVC for use with D-VHS recorders.

**3.3 Output of Content through Analog Transmission****(a) SD Analog Output**

Any SD analog output by the D-VHS recorder shall be done only through SD analog outputs that properly implement the carriage of CGMS-A and APS triggering information. In addition, when the Effective CCI indicates that further copying of the content is prohibited, the SD output of such content by the D-VHS recorder shall be done only through SD analog outputs that properly implement the generation of the Automatic Gain Control and, where applicable, Colorstripe Copy Protection Systems in accordance with the Triggering Information for such Analog Copy Protection Signals.

**(b) HD Analog output**

Any HD analog output by the D-VHS recorder shall be done only through HD analog outputs that properly implement the carriage of CGMS-A and APS triggering information.

In addition, in accordance with the analog output control information (Image Constraint Token) designated in the D-VHS Copy Control Descriptor, down-resolution of the analog output shall be implemented when required by such information.

The D-VHS Copy Control Descriptor is specified in the D-VHS MPEG Transport Stream Service Information Specification issued by JVC.

### **3.4 Combination Products**

(a) In case two or more D-VHS recording units (D-VHS VCRs) are incorporated into a single piece of equipment, each D-VHS VCR shall implement the above rules independently, and interconnections of input and output among such D-VHS VCRs shall be made outside of the equipment.

(b) In case a D-VHS VCR and other devices, such as display devices or digital broadcast receiving devices are combined in a single piece of equipment (Multi-Function Product), the Effective CCI incorporated in signals received by such Multi-Function Product shall be properly transferred to the D-VHS VCR portion of the equipment whenever copying using such D-VHS VCR is attempted and shall be properly transferred by the D-VHS VCR whenever playback is attempted from such D-VHS VCR.

### **4. Content owner's instruction**

Notwithstanding the foregoing, when a content owner expressly permits the output of specific content in a manner contrary to the restrictions set forth herein, JVC may establish appropriate exception rules for the handling of such specific content.

### **5. Playback of Encrypted Prerecorded "D-Theater" D-VHS Cassettes**

In addition to all of the above requirements, supplementary technical standards have been issued to govern D-VHS VCRs capable of playing back prerecorded D-VHS/D-Theater cassettes that have been encrypted with JVC's proprietary encryption system for such cassettes.

### **6. EPN Implementation**

Notwithstanding any contrary provisions in Section 3 above, D-VHS recorders may detect and respond to Encryption Plus Non-assertion ("EPN") if and when the DTLA adopts such a technology and promulgates Compliance Rules for its use.

February 2004

J V C

VHS Standard Center

**D-VHS COPY PROTECTION REQUIREMENTS  
SUPPLEMENT A:  
INTEGRATED PRODUCT BROADCAST PROTECTION (ATSC)**

**1. Scope**

In order to implement the applicable amendments to the Federal Communications Commission's rules adopting the ATSC flag-based redistribution control system to protect digital broadcast television content from unauthorized redistribution, as set forth in Appendix B to the Commission's Report and Order dated November 4, 2003 (FCC 03-273), \_\_ FCC Rcd \_\_, 30 Communications Reg. (P&F) 1189, 2003 WL 22494589, and published in the Federal Register on December 3, 2003, 68 FR 67599, effective in part as of January 2, 2004, 68 FR 67599, and in full as of January 20, 2004, 69 FR 2688, the following additional D-VHS Copy Protection Requirements shall apply as described below. More specifically, this requirement specifies recording control of the D-VHS VCR portion of integrated D-VHS/ATSC tuner products in response to the redistribution\_control\_descriptor (RCD) contained in a broadcast signal for the purpose of preventing unauthorized redistribution of content as specified in the FCC's regulations.

**2. Implementation**

In addition to the basic D-VHS Copy Protection Requirements that are applicable to all D-VHS devices worldwide, the following additional requirements shall apply to all integrated D-VHS/ATSC tuner products manufactured for, exported to or imported into, and/or sold in the United States of America, effective July 1, 2005 at the latest and earlier if possible. Furthermore, in recognition of the fact that the United States is the major market for ATSC-enabled products and in order to deter possible transshipping of integrated D-VHS/ATSC tuner products from countries other than the United States, the following additional requirements shall apply equally (and within the same timeframe) to all D-VHS products that are integrated together with an ATSC tuner, regardless of the country for which the product is manufactured.



Specifically:

- (1) The D-VHS portion of the integrated D-VHS/ATSC tuner product shall examine all audio-visual content received by the D-VHS portion to determine the presence of redistribution\_control\_descriptor specified by ATSC Standard A/65B whenever copying using such D-VHS portion is attempted.
- (2) In case redistribution\_control\_descriptor is present, the D-VHS portion shall set the CGMS information in the format information area specified by the D-VHS-204 MPEG Recording Format Standard to "copy restricted".
- (3) The D-VHS portion shall insert Copy\_control\_descriptor specified by the D-VHS MPEG Transport Stream Service Information Specification (Ver.1.0 or later) to indicate "Encryption Plus Non-assertion" status of the recorded content.

END



VHS STANDARD CENTER

VICTOR COMPANY OF JAPAN, LIMITED : 8/F Uchi-kanda Central Bldg., 2-12-6 Uchi-kanda, Chiyoda-ku, Tokyo 101, Japan  
Telephone 03-3253-2510 / Telefax 03-3253-2526

February, 2004

**TO: ALL D-VHS VCR LICENSEES**

**IMPORTANT NOTICE:  
"D-VHS COPY PROTECTION REQUIREMENTS  
SUPPLEMENT A:  
INTEGRATED PRODUCT BROADCAST PROTECTION (ATSC)"**

As you are aware, by Report and Order dated November 4, 2003, the Federal Communications Commission (FCC) in the United States has adopted certain regulations concerning what is commonly referred to as the "broadcast flag." Those regulations appear in complete form in the Federal Register of December 3, 2003, copies of the relevant pages of which are enclosed for your convenient reference, and are effective as of July 1, 2005.

Insofar as D-VHS VCRs are concerned, the FCC regulations require additional copy protection measures for all models which contain an integrated, or built-in, ATSC tuner.

Article 10(1) of the D-VHS VIDEO CASSETTE RECORDER LICENSE AGREEMENT requires that all licensees "comply fully with all national laws, decrees and regulations adopted" to further the objectives of the World Intellectual Property Organization Copyright Treaty "insofar as those laws, decrees and regulations are applicable to Licensed Products." In addition, Article 10(2) of the LICENSE AGREEMENT further provides that JVC may issue copy protection amendments from time to time to further these objectives. (These requirements of course also apply to JVC itself.)

Accordingly:

1. The D-VHS COPY PROTECTION REQUIREMENTS, which already apply to all D-VHS VCRs worldwide, remain unchanged and continue in full effect.
2. In order to comply with the FCC regulations described above, JVC is hereby issuing the enclosed D-VHS COPY PROTECTION REQUIREMENTS SUPPLEMENT A: INTEGRATED PRODUCT BROADCAST PROTECTION (ATSC). These additional requirements conform with the FCC "broadcast flag" regulations, and all D-VHS VCRs with integrated ATSC tuners that are manufactured for, exported to or imported into, or sold in the United States must be fully compliant by July 1, 2005.

- continued to next page -

3. In order to deter transshipping of D-VHS VCRs from ATSC countries other than the United States, and in recognition of the fact that the United States is the major market for ATSC-enabled products, JVC is hereby, pursuant to the LICENSE AGREEMENT provisions mentioned above, making SUPPLEMENT A applicable to all D-VHS products integrated with an ATSC tuner, regardless of the country for which they are manufactured.

While the deadline for compliance with SUPPLEMENT A is July 1, 2005, JVC plans to implement SUPPLEMENT A earlier if possible, and we hope all of our D-VHS VCR licensees will also do so if possible.

**Important Additional Notice:** If you are manufacturing D-VHS VCRs for independent third parties on an "OEM" basis, you must advise those parties that only D-VHS VCRs which comply with the FCC regulations may be exported to, imported into, or sold in the United States as of July 1, 2005.

Very truly yours

Kazuo Kohda

General Manager  
VHS Standard Center

**Enclosures:**

1. D-VHS COPY PROTECTION REQUIREMENTS SUPPLEMENT A:  
INTEGRATED PRODUCT BROADCAST PROTECTION (ATSC)  
(D-VHS-GL0401)
2. Relevant pages from Federal Register (December 3, 2003)  
[Pages 67599-67607]

**Person to contact:**

Yasuhiro Ayabe  
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VHS Standard Center, JVC  
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JVC: SAMPLE LIST OF U.S. D-VHS PATENTS

February, 2004

The list below represents a sample of JVC patents in the U.S. that are essential to the design and manufacture of products incorporating D-VHS technology.

	US Patent #	Description
1	5,014,274	Code-error correcting device
2	5,633,635	Method of processing code for error checking and code processing circuit
3	5,933,568	Digital signal recording and reproducing method and recording medium
4	5,991,501	Apparatus and method for recording and reproducing digital signals on first and second areas of a storage medium
5	5,822,140	Digital address information recording method for recording absolute address together with information signal on recording medium
6	5,986,833	Data recording method for recording absolute data on a tape storage medium
7	6,052,246	Method and apparatus for recording digital signals in the form of primary data plus auxiliary information
8	5,970,204	Method and apparatus for recording time code data
9	6,115,202	Digital signal recording method and recording apparatus for searching each recorded program
10	6,125,233	Method of recording one of different data

D-VHS Beneficiary Agreement for Providers of Recordable High Definition Content

AGREEMENT made this \_\_\_\_\_ day of 200\_, by and between Victor Company of Japan, Limited, a Japanese corporation having its principal place of business at 12, 3-Chome, Moriya-cho, Kanagawa-ku, Yokohama 221-8528, Japan (hereinafter referred to as "JVC"), and Miracle Films, Inc., a State of Delaware corporation having its principal place of business at 6000 Sunset Boulevard, Los Angeles, California 90028 U. S. A. (hereinafter referred to as "Miracle"):

WHEREAS, JVC is the developer and owner of a video recording and playback format known as D-VHS; and

WHEREAS, JVC has received certain patents for the D-VHS format and has applied for others; and

WHEREAS, JVC is the owner of the trademarks for D-VHS and D-THEATER as they appear on Exhibit A hereto; and

WHEREAS, Article 11 of the World Intellectual Property Organization Copyright Treaty, 36 I.L.M. 65, 71 (December 20, 1996), requires individual countries to provide legal protection and remedies for "effective technological measures" used by authors and owners to protect their rights under copyright; and

WHEREAS, JVC has incorporated the Digital Transmission Copy Protection ("DTCP") technology into its Copy Protection Requirements for D-VHS recorders ("D-VHS-CPR"), which are attached hereto as Exhibit B; and

WHEREAS, JVC has included in its D-VHS Video Cassette Recorder License Agreement ("D-VHS VCR License"), which authorizes the manufacture of D-VHS recorders and sets forth the D-VHS System Standards, provisions requiring licensees to comply with the copy protection specifications contained in the D-VHS-CPR, including any amendments thereto which JVC may issue from time to time, and to take other enumerated steps to comply with applicable copy protection requirements for D-VHS, and has provided that certain content companies will have third party beneficiary status to enforce the copy protection specifications applicable to D-VHS products produced by D-VHS licensees the relevant portions of which D-VHS VCR License are attached hereto as Exhibit C; and

WHEREAS, JVC has made available two forms of beneficiary agreements – D-VHS Beneficiary Agreement for Providers of Prerecorded High Definition D-VHS Content and D-VHS Beneficiary Agreement for Providers of Recordable High Definition Content (together, "D-VHS Beneficiary Agreements") – pursuant to which, inter alia, content companies may obtain third party beneficiary rights as described above;

WHEREAS, Miracle distributes, or intends to distribute, audio-visual works for which the DTCP technology will be used to convey such works from one consumer device to another consumer device in such a manner as to allow consumers to make authorized copies of the works at High Definition (HD) in the D-VHS format.

NOW, THEREFORE, in consideration of the foregoing premises and the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

#### ARTICLE 1 – JVC’S OBLIGATIONS

(A) JVC agrees that, if there is multi-industry consensus on the security of another digital copy protection system in addition to DTCP and High-bandwidth Digital Content Protection (“HDCP”), it will amend the D-VHS-CPR to permit the use of such other system in D-VHS recorders in addition to DTCP and HDCP.

(B) JVC agrees that, if there is a standard for watermark technology for SD input that is either required by the DTLA or agreed upon as a multi-industry consensus, it will amend the D-VHS-CPR to incorporate such watermark technology, provided that such watermark technology is compatible with the D-VHS System Standards and D-VHS-CPR and is not unduly burdensome. Similarly, JVC agrees that, if there is a standard for watermark technology for HD input that is either required by the DTLA or agreed upon as a multi-industry consensus, it will amend the D-VHS-CPR to incorporate such watermark technology, provided that such watermark technology is compatible with the D-VHS System Standards and D-VHS-CPR and is not unduly burdensome. JVC shall in no event be required to amend the D-VHS-CPR to incorporate more than one watermark technology each for SD and HD input.

(C) JVC has provided effective requirements with respect to the following copy protection items and, except as provided in subarticle (D) below, shall continue in effect the following requirements:

(1) All digital copies made by a D-VHS recorder shall apply the proprietary variant seed scrambling system.

(2) For all video inputs, digital and/or analog, D-VHS recorders must detect and respond to applicable Effective Copy Control Information, including the Encryption Mode Indicator, CGMS-A and Macrovision analog protection system. Watermark detection shall be required as provided in subarticle (B) above.

(3) All NTSC outputs shall be properly accompanied by applicable Macrovision signal and CGMS-A if and to the extent the applicable triggering information is present in the stream;

(4) Where the Effective CCI indicates that further copying of the content is prohibited or otherwise controlled, digital outputs shall be permitted only with effective digital protection technologies approved by JVC (currently DTCP and HDCP, but including future technologies approved in accordance with subarticle (D) below)

(5) Circumvention of the security system shall be prohibited, including by means of jumpers, DIP switches, code entry, and the like; and

(6) No clear digital signal pathways will be permitted in any D-VHS recorder.

(7) Where the DTCP Image Constraint Token ("ICT") is contained in relation to any content to be recorded by a D-VHS recorder, the playback of any such content that is recorded shall be in accord with the rules applicable to the ICT.

(D) Except as otherwise provided in Article 6, JVC shall provide to Miracle reasonable advance written notice, but in no event less than thirty (30) days before the proposed change is to occur, of any change to the consumer recording copy protection provisions of the D-VHS VCR License and/or the consumer recording copy protection specifications of the D-VHS-CPR, or of the proposed issuance or execution by JVC of any other document that would affect the integrity or security of the consumer recording copy protections applicable to D-VHS. For so long as this Agreement is in effect, Miracle shall have the right to file a written objection to any change it believes will make the consumer recording copy protections applicable to D-VHS less stringent. Any such objection shall set forth with specificity the reasons why Miracle believes that the proposed change would make the consumer recording copy protections applicable to D-VHS less stringent and shall be delivered to JVC no later than thirty (30) days after the date of service of notice by JVC of the proposed change pursuant to this Article 1(D) at the address specified in the notice provisions of this Agreement. Absent receipt by JVC of a written objection from Miracle, JVC may take the action described in a notice delivered pursuant to this subarticle. In the event Miracle objects to a proposed change pursuant to this subarticle, JVC and Miracle shall meet and confer in good faith to seek to resolve Miracle's objection to the proposed change. JVC agrees that it shall not make any proposed change as to which it has received notice, in the form and time described above, from a majority of the signatories to both forms of the D-VHS Beneficiary Agreements then in effect ("Eligible D-VHS Beneficiaries"), unless and until JVC receives written notice that the proposed change is acceptable to a sufficient number of Eligible D-VHS Beneficiaries such that a majority of such Eligible D-VHS Beneficiaries agree that the proposed change is acceptable. It is understood and agreed that changes that are required by the DTLA will be made by JVC without regard to the requirements of this subarticle and changes that are permitted (but not required) by DTLA are presumed to be changes that do not make the security provided by D-VHS less stringent.

(E) In recognition of the possibility that digital recording and playback capabilities could in some circumstances be used to circumvent the copy protections otherwise provided by certain digital recording and/or playback products, JVC

understands that use of digital recorders as computer peripheral devices may create opportunities for making or playing back unauthorized copies of copy protected content, even where the purpose of the peripheral device would be data backup or other unrelated uses. Accordingly, the D-VHS recorders to which the D-VHS VCR License and the D-VHS-CPR apply are not licensed for use as computer peripherals such as data backup with insecure interface and such recorders are licensed for playback and transfer of copy protected video content from D-VHS cassettes only by operation of interfaces subject to DTCP or other approved copy protection technology. If in the future JVC chooses to manufacture and/or license others to manufacture recorders using the D-VHS technology as a computer peripheral such as data backup with insecure interface, at a minimum, in relation to any manufacturing or licensing of D-VHS technology for such computer peripherals, JVC will modify the D-VHS technology sufficiently so that any video material recorded by the D-VHS recorders to which the D-VHS VCR License and D-VHS-CPR apply cannot be played back by a recorder manufactured and/or licensed for such computer peripherals.

(F) JVC's obligations under this Article shall become effective and continue to be effective only as provided in Article 3 below.

## ARTICLE 2 – MIRACLE'S OBLIGATIONS

Miracle has distributed, or will distribute, theatrical motion picture content through channels that will permit in-home transmission of such content via connections protected with DTCP technology where consumers are each permitted to make at least one authorized copy of such content at High Definition (HD) in the D-VHS format.

## ARTICLE 3 – EFFECTIVE DATE

(A) This Agreement shall become effective as of the later of (1) latest date set out on the signature page hereof or (2) the date on which Miracle distributes content as described in Article 2 above (the "Effective Date").

(B) Once it becomes effective, this Agreement shall continue in effect for a period of five years, subject to extension by mutual agreement, except as provided in Article 3(C) below.

(C) Miracle represents that it either has obtained or will, prior to the Effective Date, obtain the "Eligible Content Participant" status as set forth in Section 10.6 of Digital Transmission Protection License Agreement (Adopter Agreement July, 2001). If after this Agreement becomes effective, Miracle's "Eligible Content Participant" status under the Digital Transmission Protection License Agreement is lost, then the effectiveness of this Agreement shall simultaneously be terminated.

(D) Miracle shall provide immediate notice(s) to JVC of the precise date(s) upon which it has commenced the distribution of content pursuant to Articles 2 and 3(A) above or if it has lost "Eligible Content Participant" status pursuant to Article 3(C) above.



#### ARTICLE 4 – THIRD PARTY BENEFICIARY STATUS

(A) Immediately upon the Effective Date, Miracle shall be considered a third party beneficiary of the requirements JVC has imposed on its D-VHS licensees as specified on Exhibits B and C hereto, including any future amendments made to those requirements pursuant to Article 1 above or Article 6 below.

(B) If Miracle believes that any manufacturer of D-VHS recorders is not in compliance with the requirements described in Article 4(A) above, it shall give written notice thereof to JVC, with as much detail as possible, and allow JVC a period of 60 days to determine whether there has been a failure of compliance and, if so, to have it corrected.

(C) If there has been a failure of compliance and JVC is unable to have it corrected within the 60-day period following receipt of notice from Miracle, then Miracle shall have the right to institute legal action against the manufacture of such D-VHS recorders for an injunction prohibiting the manufacture, importation and/or sale of such D-VHS recorders.

(D) If Miracle institutes legal action pursuant to Article 4(C) above, it will promptly send a copy of the complaint or petition to JVC and will also send JVC such other documents filed in the action as JVC may reasonably request, and JVC will promptly supply to Miracle any documentation requested by Miracle which is reasonably necessary to its pursuit of the legal action.

(E) Miracle agrees to indemnify and hold JVC harmless from any and all costs and claims which may arise in connection with any third party beneficiary legal action instituted by Miracle, including but not limited to counterclaims, sanctions, attorneys' fees and costs.

(F) In any legal action instituted by it pursuant to Article 4(C) above, Miracle may not, unless JVC has given its prior written consent thereto, settle the action in any way that compromises or encumbers JVC's intellectual property rights in the D-VHS format or which amends the D-VHS VCR License, the D-VHS-CPR, or this Agreement.

(G) If JVC seeks to intervene as a party to any legal action instituted by Miracle pursuant to Article 4(C) above, Miracle will support any motion or petition by JVC to intervene in such action.

(H) If JVC becomes a party by intervention in any action instituted by Miracle pursuant to Article 4(C) above, Article 4(E) above shall not apply as written but rather Miracle and JVC shall each be responsible for their own attorneys' fees and costs and shall each be responsible for any counterclaims brought against them individually or any sanctions imposed upon them individually.

(I) If it becomes necessary in any legal action to which Miracle is a party for JVC to produce confidential proprietary information (including trade secrets), Miracle will take all necessary steps to secure an appropriate protective order guaranteeing that such information will remain confidential. If JVC is also a party to such legal action, then Miracle will support all necessary steps by JVC to secure such an appropriate protective order.

#### ARTICLE 5 – CONSTRUCTION OF THIS AGREEMENT

(A) Notwithstanding any language to the contrary, this Agreement shall be construed so that the copy protection provisions of the D-VHS VCR License, the D-VHS-CPR, and this Agreement apply equally to JVC itself and its affiliates.

(B) This Agreement shall be binding upon any successors to JVC. As used herein, the term “successors” shall be construed to apply to successors by merger, acquisition or joint venture, as well as any assignee of all or part of JVC’s intellectual property rights in the D-VHS format. Similarly, this Agreement shall be binding upon any successors to Miracle.

(C) This Agreement shall be governed by the laws of the State of California, but shall be interpreted without reference to the rule that an agreement should be construed against the party which drafted it.

(D) Nothing in this Agreement shall be construed to impose an obligation upon JVC to defend the validity of any national content protection law, regulation or decree if such law, regulation or decree is challenged in any judicial or administrative proceeding. If such challenge occurs in any judicial or administrative proceeding to which JVC is a party but Miracle is not, JVC will immediately notify Miracle and support any necessary steps by Miracle to intervene in such proceeding.

(E) Nothing in this Agreement shall be construed to impose an obligation upon JVC to defend the validity of this Agreement if it is challenged in any judicial or administrative proceeding on the ground that its provisions exceed the requirements of any national content protection law, regulation or decree or is otherwise violative of national public policy. If such challenge occurs in any judicial or administrative proceeding to which JVC is a party but Miracle is not, JVC will immediately notify Miracle and support any necessary steps by Miracle to intervene in such proceeding.

(F) The headings accompanying each of the Articles in this Agreement are for identification purposes only, and shall not be considered part of this Agreement.

(G) As used in this Agreement, the singular shall include the plural and the plural shall include the singular where necessary to give effect to the intent of the parties.

## ARTICLE 6 –MOST FAVORED NATION

Miracle represents and warrants that it has not entered into any other agreement concerning any other digital video recording technology that imposes content protection requirements on that technology which are any less stringent than those imposed upon D-VHS and JVC by virtue of this Agreement. If Miracle in the future enters into an agreement concerning another digital video recording technology that imposes content protection requirements on that technology which are any less stringent than those imposed upon D-VHS and JVC by virtue of this Agreement, Miracle will immediately so notify JVC and JVC may apply any such less stringent requirements to D-VHS, superseding the applicable provisions of this Agreement (including Exhibits).

## ARTICLE 7 – CONFIDENTIALITY

This Agreement is and shall remain confidential between the parties, and shall not be disclosed except as legally required in any legal action instituted by Miracle pursuant to Article 4(C) above or as required by valid order in any other legal proceeding. Notwithstanding the foregoing, JVC may notify its D-VHS VCR licensees that it has conferred third party beneficiary status upon Miracle.

## ARTICLE 8 - TRADE SECRET PROTECTION

Should any discussion between JVC and Miracle pursuant to this Agreement (including Exhibits) require the disclosure of any part of JVC's trade secrets relating to D-VHS, including but not limited to content protection, Miracle agrees (a) that it will sign a mutually agreed non-disclosure agreement prior to the disclosure of any such information, (b) that such non-disclosure agreement will include a representation that any employee to whom the information will be provided will be covered by a confidentiality obligation as a condition of his employment, and (c) that any employee to whom such information will be provided will sign an acknowledgement that the information being received is subject to the confidentiality obligations imposed by Miracle.

## ARTICLE 9 – SEVERABILITY

If any portion of this Agreement (including Exhibits) is ruled unenforceable or invalid by a court or administrative tribunal of competent jurisdiction, then effect shall be given to the remainder of the Agreement in the jurisdiction to which such ruling applies and the parties shall immediately negotiate in good faith to reform this Agreement so that it is enforceable and valid in that jurisdiction.

## ARTICLE 10 - NOTICES

Any notices which JVC and Miracle send to each other under this Agreement shall be directed as follows:

General Manager  
Legal & Intellectual Property Dept.  
Victor Company of Japan, Limited  
12, 3-Chome, Moriya-cho, Kanagawa-ku  
Yokohama 221-8528  
JAPAN  
Fax No. (81-45) 450-2426

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-----  
Miracle Films, Inc.  
6000 Sunset Boulevard  
Los Angeles, California 90028  
U. S. A.  
Fax No. (1- ---) -----

IN WITNESS WHEREOF, the parties hereto have cause this Agreement to be executed as of the date first above written by their duly authorized representatives. This Agreement may be executed in multiple counterparts.

Victor Company of Japan, Limited

Miracle Films, Inc.

By: \_\_\_\_\_  
Name:  
Title:  
Date:

By: \_\_\_\_\_  
Name:  
Title:  
Date:

## **Provisional Approvals for Persistent Storage and Digital Output Reprotection Technology**

**1. DTLA has granted provisional approval to the following technologies for the persistent protected storage of content that has been delivered using DTCP, pursuant to Appendix B, Part 1, Section 2.2.1 of the Adopter Agreement:**

→ 1.1 D-VHS licensed by Victor Company of Japan (JVC).

1.2 Content Protection for Recordable Media (CPRM) licensed by the 4C Entity, LLC.

**2. DTLA has granted provisional approval to the following technology as a protected digital output, pursuant to Appendix B, Part 1, Section 4.4.4 of the Adopter Agreement:**

2.1 High-bandwidth Digital Content Protection (HDCP) for DVI licensed by the Digital Content Protection, LLC.

**Revised: January 17, 2002**

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Provisional Approval notice for D-VHS as it appears  
on the website of the  
Digital Transmission Licensing Administrator (DTLA):

**[http://www.dtcp.com/data/WDC99\\_461526\\_21.pdf](http://www.dtcp.com/data/WDC99_461526_21.pdf)**

## **D-VHS/D-THEATER**

### **Prerecorded High-Definition Titles**

#### **Available Now**

**ALIEN: THE DIRECTOR'S CUT** (Fox) – Sigourney Weaver; directed by Ridley Scott  
(1979; color; 116 minutes; rated R)

**AMERICAN PIE** (Universal) – Jason Biggs, Tara Reid; directed by Paul Weitz  
(1999; color; 95 minutes; rated R)

**BACKDRAFT** (Universal) – Kurt Russell, Robert De Niro; directed by Ron Howard  
(1991; color; 132 minutes; rated R)

**BEAUTY OF JAPAN** (JVC) – A high-definition tour of Japan, the U.S. and Spain  
(2002; color; 35 minutes; not rated)

**BEHIND ENEMY LINES** (Fox) – Owen Wilson, Gene Hackman; directed by John Moore  
(2001; color; 106 minutes; rated PG-13)

**BEING JOHN MALKOVICH** (Universal) – John Cusack, Cameron Diaz; directed by Spike Jonze  
(1999; color; 112 minutes; rated R)

**BIG MOMMA'S HOUSE** (Fox) – Martin Lawrence; directed by Raja Gosnell  
(2000; color; 98 minutes; rated PG-13)

**THE BONE COLLECTOR** (Universal) – Denzel Washington, Angelina Jolie; directed by Phillip Noyce  
(1999; color; 117 minutes; rated R)

**THE BOURNE IDENTITY** (Universal) – Matt Damon; directed by Doug Liman  
(2002; color; 121 minutes; rated PG-13)

**BROTHERHOOD OF THE WOLF** (Universal) – Vincent Cassel, Monica Bellucci;  
directed by Christophe Gans (2002; color; 144 minutes; rated R)

**CAPE FEAR** (Universal) – Robert De Niro, Nick Nolte; directed by Martin Scorsese  
(1991; color; 128 minutes; rated R)

**CAST AWAY** (Fox) – Tom Hanks, Helen Hunt; directed by Robert Zemeckis  
(2000; color; 143 minutes; rated PG-13)

**COURAGE UNDER FIRE** (Fox) – Denzel Washington, Meg Ryan; directed by Edward Zwick  
(1996; color; 115 minutes; rated R)

**DAREDEVIL** (Fox) – Ben Affleck, Jennifer Garner; directed by Mark Steven Johnson  
(2003; color; 104 minutes; rated PG-13)

**DIE HARD** (Fox) – Bruce Willis, Alan Rickman; directed by John McTiernan  
(1988; color; 132 minutes; rated R)

- DIGITAL VIDEO ESSENTIALS** (JKP) – instructional [choice of 1080i or 720p]  
(2003; color; 145 minutes; not rated)
- DR. T & THE WOMEN** (Artisan) – Richard Gere, Helen Hunt; directed by Robert Altman  
(2000; color; 122 minutes; rated R)
- DON'T SAY A WORD** (Fox) – Michael Douglas; directed by Gary Fleder  
(2001; color; 113 minutes; rated R)
- THE EMPEROR'S CLUB** (Universal) – Kevin Kline; directed by Michael Hoffman  
(2002; color; 110 minutes; rated PG-13)
- END OF DAYS** (Universal) – Arnold Schwarzenegger; directed by Peter Hyams  
(1999; color; 103 minutes; rated R)
- ENTRAPMENT** (Fox) – Sean Connery, Catherine Zeta-Jones; directed by Jon Amiel  
(1999; color; 113 minutes; rated PG-13)
- EVOLUTION** (DreamWorks) – David Duchovny, Julianne Moore; directed by Ivan Reitman  
(2001; color; 103 minutes; rated PG-13)
- THE FAMILY MAN** (Universal) – Nicolas Cage, Tea Leoni; directed by Brett Ratner  
(2000; color; 125 minutes; rated PG-13)
- THE FAST AND THE FURIOUS** (Universal) – Paul Walker, Vin Diesel; directed by Rob Cohen  
(2001; color; 107 minutes; rated PG-13)
- FIGHT CLUB** (Fox) – Brad Pitt, Edward Norton; directed by David Fincher  
(1999; color; 139 minutes; rated R)
- FIRST BLOOD** (Artisan) – Sylvester Stallone, Richard Crenna; directed by Ted Kotcheff  
(1982; color; 97 minutes; rated R)
- FROM HELL** (Fox) – Johnny Depp, Heather Graham; directed by The Hughes Brothers  
(2001; color; 122 minutes; rated R)
- GALAXY QUEST** (DreamWorks) – Tim Allen, Sigourney Weaver; directed by Dean Parisot  
(1999; color; 102 minutes; rated PG)
- GHOST DOG: THE WAY OF THE SAMURAI** (Artisan) – Forest Whitaker; directed by Jim Jarmusch  
(1999; color; 116 minutes; rated R)
- GLENGARRY GLENROSS** (Artisan) – Al Pacino, Kevin Spacey; directed by James Foley  
(1992; color; 100 minutes; rated R)
- GOSFORD PARK** (Universal) – Alan Bates, Maggie Smith; directed by Robert Altman  
(2001; color; 137 minutes; rated R)

**THE HAUNTING** (DreamWorks) – Liam Neeson, Catherine Zeta-Jones; directed by Jan de Bont (1999; color; 112 minutes; rated PG-13)

**HIGH CRIMES** (Fox) – Ashley Judd, Morgan Freeman; directed by Carl Franklin (2002; color; 115 minutes; rated PG-13)

**HOUSE OF YES: LIVE FROM THE HOUSE OF BLUES** (BMG) – stage performance by Yes; directed by Michael Chloe (2000; color; 112 minutes; not rated)

**THE HURRICANE** (Universal) – Denzel Washington; directed by Norman Jewison (1999; color; 125 minutes; rated R)

**ICE AGE** (Fox) – Animation; directed by Chris Wedge [**plus five-minute animated short “Scrat’s Missing Adventure”**] (2002; color; 81 minutes; rated PG)

**INDEPENDENCE DAY** (Fox) – Will Smith, Jeff Goldblum; directed by Roland Emmerich (1996; color; 145 minutes; rated PG-13)

**KISS OF THE DRAGON** (Fox) – Jet Li, Bridget Fonda; directed by Chris Nahon (2001; color; 98 minutes; rated R)

**K-PAX** (Universal) – Kevin Spacey, Jeff Bridges; directed by Iain Softley (2001; color; 120 minutes; rated PG-13)

**THE LEAGUE OF EXTRAORDINARY GENTLEMEN** (Fox) – Sean Connery; directed by Stephen Norrington (2003; color; 110 minutes; rated PG-13)

**THE LIMEY** (Artisan) – Terrence Stamp; directed by Steven Soderbergh (1999; color; 89 minutes; rated R)

**MEET JOE BLACK** (Universal) – Brad Pitt, Anthony Hopkins; directed by Martin Brest (1998; color; 178 minutes; rated PG-13)

**MEN OF HONOR** (Fox) – Robert De Niro, Cuba Gooding Jr.; directed by George Tillman Jr. (2000; color; 129 minutes; rated R)

**MOTLEY CRUE: LEWD, CRUED & TATTOOED LIVE** (Universal Music) – stage performance by Motley Crue; directed by Dave Diomedì (2000; color; 76 minutes; not rated)

**MOULIN ROUGE** (Fox) – Nicole Kidman, Ewan McGregor; directed by Baz Luhrmann (2001; color; 127 minutes; rated PG-13)

**MULHOLLAND DRIVE** (Universal) – Naomi Watts; directed by David Lynch (2001; color; 147 minutes; rated R)



**THE MUMMY** (Universal) – Brendan Fraser, Rachel Weisz; directed by Stephen Sommers  
(1999; color; 125 minutes; rated PG-13)

**NATIONAL LAMPOON'S VAN WILDER** (Artisan) – Ryan Reynolds, Tara Reid; directed  
by Walt Becker (2002; color; 94 minutes; unrated version)

**THE NINTH GATE** (Artisan) – Johnny Depp; directed by Roman Polanski  
(1999; color; 133 minutes; rated R)

**NOVOCAINE** (Artisan) – Steve Martin, Helena Bonham Carter; directed by David Atkins  
(2001; color; 95 minutes; rated R)

**ONE FROM THE HEART** (Zoetrope) – Frederic Forrest, Teri Garr; directed by  
Francis Ford Coppola (1982; color; 99 minutes; not rated)

**THE PEACEMAKER** (DreamWorks) – George Clooney, Nicole Kidman; directed by Mimi  
Leder (1997; color; 124 minutes; rated R)

**PHONE BOOTH** (Fox) – Colin Farrell, Forest Whitaker; directed by Joel Schumacher  
(2003; color; 81 minutes; rated R)

**PLANET OF THE APES** (Fox) – Mark Wahlberg, Tim Roth; directed by Tim Burton  
(2001; color; 120 minutes; rated PG-13)

**THE RING** (DreamWorks) – Naomi Watts; directed by Gore Verbinski  
(2002; color; 115 minutes; rated PG-13)

**SNOW FALLING ON CEDARS** (Universal) – Ethan Hawke; directed by Scott Hicks  
(1999; color; 126 minutes; rated PG-13)

**SPEED** (Fox) – Keanu Reeves, Sandra Bullock; directed by Jan de Bont  
(1994; color; 110 minutes; rated R)

**SPY GAME** (Universal) – Robert Redford, Brad Pitt; directed by Tony Scott  
(2001; color; 127 minutes; rated R)

**STANDING IN THE SHADOWS OF MOTOWN** (Artisan) – musical documentary; directed  
by Paul Justman (2002; color; 116 minutes; rated PG)

**STIR OF ECHOES** (Artisan) – Kevin Bacon; directed by David Koepp  
(1999; color; 99 minutes; rated R)

**TERMINATOR 2: JUDGMENT DAY** (Artisan) – Arnold Schwarzenegger; directed by  
James Cameron (1991; color; 134 minutes; rated R)

**THERE'S SOMETHING ABOUT MARY** (Fox) – Cameron Diaz, Ben Stiller; directed by  
The Farrelly Brothers (1998; color; 119 minutes; rated R)

**THE TIME MACHINE** (DreamWorks) – Guy Pearce; directed by Simon Wells  
(2002; color; 96 minutes; rated PG-13)

**THE TRANSPORTER** (Fox) – Jason Statham, Shu Qi; directed by Corey Yuen  
(2002; color; 92 minutes; rated PG-13)

**TRUE LIES** (Fox) – Arnold Schwarzenegger; directed by James Cameron  
(1994; color; 144 minutes; rated R)

**U-571** (Universal) – Matthew McConaughey, Bill Paxton; directed by Jonathan Mostow  
(2000; color; 116 minutes; rated PG-13)

**UNFAITHFUL** (Fox) – Richard Gere, Diane Lane; directed by Adrian Lyne  
(2002; color; 123 minutes; rated R)

**X-MEN** (Fox) – Hugh Jackman, Patrick Stewart; directed by Bryan Singer  
(2000; color; 104 minutes; rated PG-13)

**X-2: X-MEN UNITED** (Fox) – Hugh Jackman, Patrick Stewart; directed by Bryan Singer  
(2003; color; 132 minutes; rated PG-13)

### **Upcoming Titles**

*Available March 23, 2004*

**ABOUT A BOY** (Universal) – Hugh Grant; directed by Chris Weitz and Paul Weitz  
(2002; color; 101 minutes; rated PG-13)

**AMERICAN PIE 2** (Universal) – Jason Biggs, Shannon Elizabeth; directed by J.B. Rogers  
(2001; color; 104 minutes; rated R)

**THE CONTENDER** (DreamWorks) – Joan Allen, Jeff Bridges; directed by Rod Lurie  
(2000; color; 127 minutes; rated R)

**FORCES OF NATURE** (DreamWorks) – Sandra Bullock, Ben Affleck; directed by  
Bronwen Hughes (1999; color; 104 minutes; rated PG-13)

**THE MUMMY RETURNS** (Universal) – Brendan Fraser, Rachel Weisz; directed by  
Stephen Sommers (2001; color; 129 minutes; rated PG-13)

**NOTTING HILL** (Universal) – Julia Roberts, Hugh Grant; directed by Roger Michell  
(1999; color; 123 minutes; rated PG-13)

*Available April 20, 2004*

**BUTCH CASSIDY AND THE SUNDANCE KID** (Fox) – Paul Newman, Robert Redford;  
directed by George Roy Hill (1969; color; 112 minutes; rated PG)

**MASTER AND COMMANDER: THE**

**FAR SIDE OF THE WORLD** (Fox) – Russell Crowe; directed by Peter Weir  
(2003; color; 139 minutes; rated PG-13)

**RUNAWAY JURY** (Fox) – John Cusack, Gene Hackman, Dustin Hoffman, Rachel Weisz;  
directed by Gary Fleder (2003; color; 127 minutes; rated PG-13)

**... and more title announcements coming soon!**

***Title list updated as of February 25, 2004.***

Key to Title Suppliers

Artisan = Artisan Home Entertainment  
BMG = BMG Entertainment  
DreamWorks = DreamWorks Home Entertainment  
Fox = Twentieth Century Fox Home Entertainment  
JKP = Joe Kane Productions  
JVC = Victor Company of Japan, Limited  
Universal = Universal Studios Home Video  
Universal Music = Universal Music & Video Distribution  
Zoetrope = American Zoetrope

**Notice: D-Theater cassettes can be played only on D-VHS VCRs bearing the D-Theater logo. All titles are in 1080i unless otherwise indicated. D-VHS [logo] and D-Theater [logo] are trademarks of Victor Company of Japan, Limited (JVC).**

**EMBARGOED UNTIL WEDNESDAY, JANUARY 30, 2002 6AM PST**

Contact: Dean Bender, Shawna or Lynch or Deborah Bancroft  
BENDER/HELPER IMPACT  
310-473-4147

**4 HOLLYWOOD FILM STUDIOS ANNOUNCE SUPPORT FOR  
D-VHS D-THEATER HIGH DEFINITION VIDEO FORMAT**

**Companies To Release Prerecorded Film Content on New Format**

LOS ANGELES, Calif. (January 30, 2002) – Four Hollywood film studios announced today their intention to release feature films on the new high definition D-VHS platform, the totally digital technology. The studios have opted to release their films on an optional system within the D-VHS format, called D-Theater. Created by JVC specifically for copyrighted, high value prerecorded content, D-Theater provides a state-of-the-art level of security demanded by content producers in the digital era. Artisan Entertainment, DreamWorks SKG, Twentieth Century Fox and Universal Studios are expected to release the first D-Theater titles in 2002. The support of these major content providers marks the next phase in the acceptance of high definition as the new standard for home entertainment and television viewing.

“The D-VHS format offers superior picture quality to any other format in existence today and the solid copyright protection technology built into the D-Theater system makes the format extremely attractive to us as content providers,” said Patricia Wyatt, President, Twentieth Century Fox Home Entertainment. “Nothing else can reproduce the visual impact of film and we anticipate that true film enthusiasts will adopt D-Theater now that Hi-Def prerecorded content will be available.”

(more)

D-VHS D-Theater software will be recorded in the HS mode at an incredible 28 Mbps data rate, surpassing even the 19 Mbps ATSC standard for HDTV broadcasts. D-VHS's enormous 44 GigaByte capacity per cassette makes it possible for software content providers to fit an entire feature-length HDTV movie on a single cassette. In addition, the D-Theater system ensures the protection of copyrighted digital content through a proprietary security system designed by JVC.

"As the only hi-def format in existence, the D-Theater option allows us to offer movie fans an unprecedented home theater experience," said Kelley Avery, Worldwide Head of DreamWorks Home Entertainment. "This format offers the most pristine viewing quality to the increasing number of households with hi-def systems."

A D-VHS cassette has the maximum capacity to record and playback 4 hours of high definition television or more than 50 hours of standard definition television. JVC's high definition recorder also gives consumers the flexibility to record and play back in analog VHS, Super VHS, Super VHS ET and digital D-VHS formats (HS, STD and LS3).

"It has always been our goal to provide consumers with the option to obtain the best picture quality in which to view our products, and the D-VHS D-Theater platform offers just that," said Steve Beeks, President, Artisan Entertainment. "This idea, combined with the ability to record hi-definition television and the option to view standard cassettes from a consumer's existing home library, makes this product very attractive."

While the introduction of the D-VHS format follows the relatively recent launch of DVD, the launching studios view the two as offering unique benefits to the consumer. "D-VHS is in a unique class different from DVD. This meets the videophiles highest quality expectations for an in-home experience," said Craig Kornblau, President, Universal Studios Home Video. "JVC's D-VHS D-Theater video recorder will allow consumers to play hi-def content which clearly differentiates it from a DVD player. It is the only hi-def option."

# # #



For Immediate Release

Contact: Kathleen Talbert  
212 675-5525

## **AMERICAN ZOETROPE TO RELEASE FRANCIS FORD COPPOLA'S ONE FROM THE HEART FOR THE HIGH-DEFINITION D-THEATER PLATFORM**

(January 6, 2004) – American Zoetrope has announced it will release a brand new (2003) high definition transfer of Francis Coppola's 1982 musical fantasy and offbeat love story *One From The Heart* in the new high-definition D-Theater platform for consumers, featuring JVC's D-Theater copy protection system. The D-Theater release will go on sale on January 27, 2004 (suggested retail price, \$39.99), coinciding with the release of the film in a special two-disk DVD edition on the brand new American Zoetrope DVD label.

D-Theater is a digital VHS tape format, currently the only high-definition format available that offers the growing number of consumers with high definition televisions the quality content they have been seeking. Created by JVC specifically for copyrighted, high value prerecorded content, D-Theater also provides a state-of-the-art level of security demanded by content providers in the digital era.

Set amidst the glitter of Las Vegas, *One from the Heart* stars Teri Garr, Frederic Forrest, the late Raul Julia, Nastassia Kinski, Lainie Kazan, and Harry Dean Stanton. "The D-VHS format allows the home viewer to see the clarity and magnificence of Academy Award (R) winning cinematographer Vittorio Storaro's brilliant photography, captured in this stunning new high definition transfer from the original camera negative," said Kim Aubry, senior vice-president of American Zoetrope. "In addition, the soundtrack is completely remixed and remastered in Dolby Digital 5.1 sound from the original 1981 Tom Waits recording studio sessions. The inherently high bit-rate of the D-VHS format gave us completely transparent reproduction of the film's soundtrack."

The visually stunning *One From the Heart* was far ahead of its time in its unique style and became a touchstone for future directors. For *Moulin Rouge*!, Baz Luhrmann took inspiration from Coppola's fantasy musical: "*One from the Heart* as a visual language reference was continually and constantly in our dialogue...."

- more -

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Francis Coppola was an early proponent of high definition, and it is fitting that his experimental and innovative film would take advantage of this first incarnation of consumer high definition delivery.

*One from the Heart* was produced at Zoetrope Studios and is widely credited with being the film that pioneered the electronic cinema. Innovations introduced to the production included electronic editing, pre-visualization and automated theatrical lighting.

In its first 30 years, American Zoetrope has produced some of the most important films in American cinema, including *American Graffiti*, *The Godfather, Parts II & III*, *The Black Stallion*, *The Outsiders* and *Rumblefish*, *Peggy Sue Got Married*, *Barfly*, *The Conversation*, *Apocalypse Now*, *Bram Stoker's Dracula*, *Don Juan DeMarco*, *Mi Familia* and most recently *The Virgin Suicides*, *CQ* and *Lost in Translation*. Their films have received fifteen Academy Awards and sixty-eight nominations. Four Zoetrope-produced films were included in the American Film Institute's top 100 American films. American Zoetrope has constantly embraced the creative possibilities of technology, and launched many of today's cinema technologies: Video Assist, Pre-visualization, video dailies, electronic editing and Network enabled creative services. Under Coppola's leadership, American Zoetrope has become known for orchestrating alternative approaches to filmmaking and challenging stale Hollywood standards. Additional information about American Zoetrope can be found at: <http://www.zoetrope.com>.

Additional information about JVC's D-VHS/D-Theater high-definition home theater system can be found at: <http://www.dvhsmovie.com>.

Excerpts from  
Congressional Testimony and Public Speeches by  
PETER CHERNIN  
President and Chief Operating Officer, News Corporation  
referring to D-VHS

Prepared testimony before the Senate Commerce, Science and Transportation Committee  
February 28, 2002  
selected pages attached – full testimony can be downloaded from:  
<http://www.commerce.senate.gov/hearings/hearings0202.htm>

Speech before The Media Institute  
March 20, 2002  
selected portions attached – full text will be found at:  
<http://www.mediainstitute.org/Speeches/chernin.html>

Oral testimony and prepared testimony before the House Subcommittee on  
Telecommunications and the Internet, Committee on Energy and Commerce  
April 25, 2002  
selected pages attached – full testimony, oral and prepared, will be found in:  
“Ensuring Content Protection in the Digital Age” (Committee Print, Serial No. 107-95)

Speech before Comdex  
November 19, 2002  
selected portions attached – full text will be found at:  
[http://www.newscorp.com/news/news\\_178.html](http://www.newscorp.com/news/news_178.html)



**Before the Senate Commerce, Science and Transportation  
Committee**

**Testimony of Peter Chernin  
President and Chief Operating Officer  
News Corporation**

**February 28, 2002**

Good morning Mr. Chairman and Members of the Committee. My name is Peter Chernin and I am the President and Chief Operating Officer of the News Corporation. Thank you, Mr. Chairman, for inviting me to participate in today's hearing. I would like to take this opportunity to applaud you for your leadership on seeking to ensure copyright protection for content producers in the digital broadband age.

News Corporation began fifty years ago as the owner and operator of a single newspaper. Today we are one of the world's largest media companies. News Corporation operates newspapers, a publishing house, a film company, a television network, television stations, cable program networks, and the largest TV production studios in the world. Yet in all that time, and in all those businesses, the company's basic function has not changed. Whether we're delivering the New York Post in Harlem, New York, broadcasting our FOX television programs to viewers across South Carolina, or preparing our novels from Harper Collins to be downloaded onto e-books for students in Alaska, News Corporation is essentially a producer and distributor of content. Our job is to create and select the most valuable information and entertainment, to package it as attractively as possible, and to distribute it as widely and as efficiently as technology will allow.

As an industry, we are in a very exciting but challenging time. The rise of broadband Internet and other digital technologies is providing us with tools of unprecedented flexibility that we are only beginning to fathom. We are already

television programming generates additional billions of dollars in revenues. Imagine a world where those revenues vanish because any television episode can be posted to the Internet at the time of its first network run for redistribution around the world. What would happen to the hundreds of TV production companies and distributors that employ thousands if buyers vanish because there were no incentives to purchase the rights of episodes because that are freely accessible on the Web? These are the questions we are asking ourselves.

One solution to this dilemma may be that we only distribute our content through media that are reasonably secure. For example, pay cable, direct broadcast satellite, and

→ [ D-VHS are digital distribution channels to the home that provide a basic level of security for digital content. Indeed, even the Internet affords us the basis to securely transmit our content. In each of these areas we are able to protect our content, through either a

→ [ negotiation process regarding protection technology (for example, "D-Theater" encryption for D-VHS), or a licensing process using a commercially available Digital Rights Management (DRM) technology for the Internet, or through contractual arrangements with cable and satellite providers. However, there is one major digital distribution method that does not currently offer adequate protection right now -- digital over-the-air broadcast TV ("DTV").

One might ask why broadcast television is worthy of protection in this time of multichannel offerings such as cable and direct broadcast satellite, each offering a vast array and variety of programming. The answer lies in the unique local nature of the service provided by broadcast television. For it is broadcasters who provide viewers with:

high quality local news that keeps viewers abreast of the happenings in their community;

community affairs programs that help them keep up with local politics, issues, and events in their area;

**Peter Chernin  
President & COO, News Corporation**

**The Media Institute  
Communications Forum Luncheon  
March 20, 2002**

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Thank you, Patrick, for the introduction, and for the opportunity to appear before you today. It is a pleasure to be asked to speak to members and guests of the Media Institute – an organization whose commitment to the First Amendment guarantees of free speech and free press has been unwavering.

Today I'd like to talk about a related constitutional right – copyright protection -- one that's been put in jeopardy by the rapid spread of digital technology – and that's been further undermined by attacks in the media over the past couple weeks. Copyright protection can be traced back to Article One of the United States Constitution, and has served ever since as a bedrock principle on which much of this country's prosperity – and culture – have been built. But the right to hold and defend a copyright is being wholly disregarded as digital pirates steal content with the click of a mouse, as the rollout of broadband technologies makes unauthorized downloads easier and quicker and as our opponents provide skewed justifications for outright theft.

↓ [ The urgent work of our coalition is to find ways to safely reach our customers while avoiding digital theft. For example, while pay cable, direct broadcast satellite, D-VHS and even the Internet are content distribution channels to the home that provide a basic level of security, digital over-the-air broadcast TV, or DTV, does not.

↓ [ News Corporation, in partnership with our industry colleagues, has recently identified a technological solution that will put DTV on a level playing field with cable, DBS and D-VHS. It involves the insertion of a "broadcast flag" in digital broadcast signals that can be detected upon receipt by a DTV set. We are confident that our ongoing negotiations with the consumer electronics and information technology industries – referred to as the "5C" negotiations – will lead to the adoption of this technology. There are no rational impediments to achieving a fair and equitable solution to broadcast protection in a digital world.

# ENSURING CONTENT PROTECTION IN THE DIGITAL AGE

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## HEARING BEFORE THE SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

APRIL 25, 2002

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and the sooner the better—so the industry's exposure to piracy is limited *going forward*. But to do so in a way that makes obsolete, or even degrades the functionality of, existing products should be a nonstarter.

Mr. Chairman, again I commend you for tackling these difficult issues today, and I look forward to continuing our work together to meet the challenges they present.

Mr. UPTON. This is a first that we are actually going to have a video conference in this hearing room, and our first witness will be Mr. Peter Chernin, President and CEO of News Corporation, who is actually in Los Angeles, to be followed by Mr. Richard Parsons, Co-Chief Operating Officer of AOL Time Warner, Dr. Paul Liao, Chief Technology Officer of Panasonic/Matsushita, Mr. Larry Blanford, CEO of Philips Consumer Electronics, Mr. Larry Jacobson, President and Chief Operating Officer of RealNetworks, Mr. Assaf Litai, Founder and Acting CEO of Vidiuz, and Mr. Joe Kraus, Co-founder of DigitalConsumer.org.

We will start long distance with Mr. Peter Chernin. Peter, welcome. Thank you for appearing. All of your statements are all made part of the record. If you could also try to abide by the 5-minute rule, that would be truly appreciated. Thank you.

Mr. Chernin.

**STATEMENTS OF PETER CHERNIN, PRESIDENT AND CHIEF OPERATING OFFICER, NEWS CORPORATION; RICHARD D. PARSONS, CO-CHIEF OPERATING OFFICER, AOL TIME WARNER INC.; PAUL F. LIAO, CHIEF TECHNOLOGY OFFICER, PANASONIC/MATSUSHITA ELECTRIC CORPORATION OF AMERICA; LAWRENCE J. BLANFORD, CEO, PHILIPS CONSUMER ELECTRONICS; LARRY JACOBSON, PRESIDENT AND CHIEF OPERATING OFFICER, REALNETWORKS; ASSAF LITAI, FOUNDER AND ACTING CEO, VIDIUZ; AND JOE KRAUS, CO-FOUNDER, DIGITALCONSUMER.ORG**

Mr. CHERNIN. Thank you, sir. Good afternoon, Mr. Chairman, Ranking Member Markey and members of the subcommittee. My name is Peter Chernin, and I am the President of the News Corporation. Thank you, Mr. Chairman and Ranking Member Markey, for inviting me to participate in today's hearing by video conference.

I would like to take this opportunity to applaud all of you for your leadership in seeking to ensure copyright protection for content providers in the digital age.

First, I would like to point out that, although some content providers have been accused of being backward thinking and anti-technology, I am proud to be aggressively pioneering this committee's brand new video conference technology.

As an industry, we are in a very exciting but challenging time. The rise of the broadband Internet and other digital technologies is providing us with tools of unprecedented flexibility that we are only beginning to fathom. News Corporation is already harnessing these technologies and distribution methods on an unprecedented scale.

For example, over 50 percent of United States television households are able to receive Fox programming in digital form, including the first ever all digital, wide screen Super Bowl earlier this year. We have released hundreds of Fox movies on DVD, and will soon be releasing Fox movies in the high definition digital DVHS

→ [ prerecorded format. However, we strongly believe that the great promise of broadband Internet and other digital technologies can be fully achieved only if protections are in place to safeguard our investment in the development and distribution of content.

Recently, we have seen more and more Napster-like programs, such as Gnutella and Morpheus, which facilitate the downloading of motion pictures and television programming without authorization or compensation to the copyright holder.

With the advent of broadband, it is only a matter of time before these file sharing technologies and other emerging mechanisms have a serious impact on the economic viability of the motion picture and television broadcast industries. However, I cannot emphasize enough that it will not be just the media companies that will be hurt economically if this piracy continues.

Rampant piracy will hurt all businesses and consumers and individuals that make their livelihood from the making, redistribution, and licensing of content.

→ [ We are working to solve the piracy problems ourselves by distributing our content through media that are reasonably secure. For example, pay cable, direct broadcast satellite, and DVHS are digital distribution channels to the home that provide a basic level of security for digital content.

In each of these areas we are able to protect our content either through contractual arrangements with cable and satellite providers or through a licensing process using commercially available digital rights management, DRM, technology for the Internet. However, I want to focus for a moment on the one major digital distribution method that does not currently offer adequate protection, digital over the air broadcast television or so called DTV.

Presently, cable and satellite have a competitive advantage over DTV due to the closed nature of cable and satellite systems that allow for encryption and, thus, for the protection of content. DTV, on the other hand, is not encrypted for public policy reasons and, therefore, does not enjoy these same protections. However, we have identified a technological solution that works without encrypting DTV.

It involves the insertion of a broadcast flag in DTV signals that can be detected upon receipt by DTV processing equipment. Once detected, the receiving device would protect the content from being redistributed on the Internet. However, this technology would have no impact on the ability of individuals to make personal copies of their favorite television shows.

Mr. Chairman, as you are undoubtedly aware, there has been an ongoing effort for the last several years to negotiate the protection of all digital audio-visual content delivered to the home network, including but not limited to DTV. These negotiations, often referred to as the 5C negotiations, have made substantial progress with regard to the protection of pre-recorded and conditional access delivered content such as pay per view, video on demand, and pay and basic cable, and we at Fox applaud that progress.

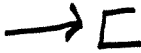
I am also pleased to note, Mr. Chairman, that over the past few weeks significant progress has been made between our industry and the IT and consumer electronics industries on solving the prob-

that happen. As with the broadcast flag and the analog hole solutions, we will need Congress to codify this solution to the illegal download problem.

At the end of the day, Mr. Chairman and members of the subcommittee, if we do not find creative solutions to this real and growing problem, consumers will be the ultimate losers. While some may see a short term gain in obtaining free, unauthorized material from the Internet, the long term result will be less consumer choice and stunted American technological growth and development.

I thank you for the opportunity to present the views of News Corporation from a distance on this important topic, and I will be happy, whenever you would like, to answer any questions. Thank you.

[The prepared statement of Peter Chernin follows:]



PREPARED STATEMENT OF PETER CHERNIN, PRESIDENT AND CHIEF OPERATING OFFICER, NEWS CORPORATION

Good morning, Mr. Chairman and Members of the Subcommittee. My name is Peter Chernin and I am President and Chief Operating Officer of News Corporation. Mr. Chairman, I want to take this opportunity to thank the Subcommittee for inviting me to participate in today's hearing, and to applaud the Subcommittee's efforts to ensure copyright protection for content producers in the digital broadband age.

First, I would like to point out that, although some content providers have been accused of being backward-thinking and anti-technology, I am proud to be aggressively pioneering this Committee's brand-new video conference technology. It is not the first time the entertainment industry has pushed technological innovation to new levels. I hope that this will not go unnoticed by our detractors.

You have asked me to cover several topics in my testimony: first, to describe industry efforts to ensure that digital television content—particularly high-definition content—is protected once the transition from analog to digital television is complete; next, to identify the goal of the Copy Protection Technology Working Group (or "CPTWG") and its subcommittee, the Broadcast Protection Discussion Group (or "BPDG"). I will also discuss my company's involvement in the BPDG's efforts to address the broadcast flag technology solution; the process of evaluating alternative technologies capable of keeping free, over-the-air television programming from being redistributed on the Internet; the impact of content protection technology on consumers' ability to enjoy the full panoply of new and exciting digital equipment; and, finally, inter-industry efforts to close the "analog hole" and to resolve the broader, peer-to-peer file sharing problems, as well as the proper role of government in determining those solutions. I welcome the opportunity to provide you with my company's perspective on these important matters.

1. PRE-BPDG EFFORTS TO PROTECT DIGITAL TELEVISION

A. *The CPTWG and the Identification of the "DTV Hole"*

I will begin by giving you a few words of background on the CPTWG.

The CPTWG was founded in the aftermath of unsuccessful discussions in the mid-1990's among representatives of the content, consumer electronics and information technology industries regarding a legislative approach to protecting content in the dawning digital era. The CPTWG was created to be a non-exclusive, non-legislative, non-binding forum that would meet regularly to investigate and seek consensus on technological solutions for various content protection challenges. I think it's important to recognize that the CPTWG is *not* a standard-setting organization and has no authority to promulgate or even recommend particular technologies. Even where consensus on a particular technological approach has been reached within the CPTWG, implementation is always left to entities outside the forum.

From the outset of discussions within the CPTWG, there was widespread recognition that content delivered to consumers in encrypted form was easier to protect, from both a technological and a legal perspective, than content that was unencrypted, or "in-the-clear." As a result, CPTWG focused its initial efforts almost exclusively on the protection of content that could be delivered to the home in encrypted form—in other words, physical media like DVDs and cable and satellite programming distributed via conditional access. The idea was that once encrypted,

- c. Through non-legacy digital outputs and recording methods that provide adequate protection against unauthorized redistribution. The parties have agreed on three alternative "market acceptance"-based criteria and one alternative "just-as-good-as" criterion for determining which outputs and recording methods meet the "adequate protection" test (as discussed in further detail below). The parties have also agreed on certain recommendations to the Policy Group as to how to handle disputes and the "hacking" of authorized output and recording protection technologies.

*B. The Impact of the Agreed BPDG Conclusions on Alternative Technologies for Protecting DTV from Unauthorized Redistribution*

These are the pillars of the MPAA/5C/CIG proposal, a proposal that carefully balances the rights of content owners, of device manufacturers, of the proprietors of technologies currently available to protect DTV from unauthorized redistribution, and of the proprietors of such technologies that will become available in the future. As I've noted, the agreement provides for four alternative methods by which a particular protection technology can be proposed for inclusion on the list of approved technologies (the so-called "Table A") or added later. The first method requires agreements with just three content providers (of whom only two need be studios) by which such providers use or approve the particular technology. The second requires agreements with just two studios—as well as 10 device manufacturers. The third method is the "just-as-good-as" method, by which a proprietor of a new technology can get on the list without having had to get anyone to adopt the technology, merely by showing a neutral arbiter that the technology is "at least as effective" as an uncompromised technology already on the list. This fourth method enables protection technologies linked to technologies already on the list to also be added.

Some participants in the BPDG have argued that technologies should be candidates for inclusion on the list just by virtue of the sheer volume of content protected, regardless of whether content owners have had any say whatsoever in this protection. Such an approach strikes us as far too manipulable by device manufacturers and unlikely to ensure that only effective technologies be added to the list. Other participants have suggested that an array of technical criteria be adduced to determine whether a technology is "good enough" to be added to the list. While such a proposal sounds even-handed, no list of technical factors could realistically represent the complex ways those factors interact to make an overall system architecture effective (or not). Furthermore, no list of factors developed in 2002 could possibly anticipate all of the revolutionary ways in which future protection technologies might evolve. As such, the "technical criteria" approach would stifle creative technology development without necessarily keeping ineffective technologies off the list.

By contrast, the "market acceptance" criteria outlined in the MPAA/5C/CIG proposal serve to screen for ineffective technologies while protecting the proprietors of effective technologies against slow marketplace acceptance by content providers. Nor do these criteria discriminate against innovative and unorthodox approaches. Just to take one example, Philips has presented BPDG with a proposal whereby unencrypted recordings of broadcast content could be protected by an alternative "flag preserving" mechanism. Protection in this scheme would be derived from "compliance" rather than "self-protection." Because Philips has not yet specified exactly how this compliance would be achieved, its proposal is currently incomplete. However, nothing in the agreed criteria will preclude Philips from petitioning to add its proposed technology to the list of approved recording protection technologies in the future, once it has a complete proposal to submit. We look forward to evaluating this proposal, as well as other examples of the benefits of innovative thinking we expect to receive in the future.

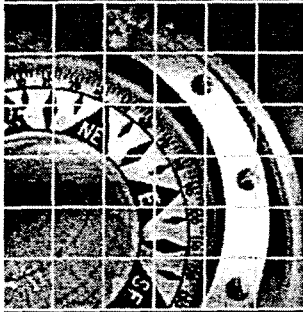
*C. The Impact of the Agreed BPDG Conclusions on Consumers' Enjoyment of Digital Technology*

It's equally important to point out that nothing in the proposed BPDG requirements will adversely affect consumers' enjoyment of digital equipment in all its exciting variety. To the contrary, the emerging consensus on how DTV should be protected will accelerate the proliferation of such equipment by better informing manufacturers exactly what sort of protections to incorporate. Nor will protection requirements hinder the operation of new digital equipment. Consumers will continue to be enabled to make secure copies of DTV content marked with the Broadcast Flag, either on personal video recorders like TiVo or ReplayTV or on removable media such as D-VHS tapes or recordable DVDs. Similarly, the requirement that non-legacy digital outputs be protected will do nothing to hinder the ability of consumers to send DTV content across a home digital network with connections to digital set top boxes, digital recorders, digital servers and digital display devices. Finally, the





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### Address to Comdex by News Corporation President and Chief Operating Officer Peter Chernin

#### The Problem with Stealing

Thank you very much, Fred, and thanks for inviting me.

I'm glad to have the opportunity to speak here at Comdex – although I have to admit I'm a little nervous as well. To stand up and represent the media industry before the biggest technology crowd in the world, while it's certainly a great honor, is also the kind of death-defying stunt that's featured in Jackass: The Movie. While I feel privileged to be the first media executive to take this stage, I can't help wondering whether there might have been media executives in previous years who didn't quite make it as far as the stage.

→ [ The truth, of course, is pretty exactly the opposite. Not only have creative content industries embraced and thrived on new technologies – we have been central to their birth and their success throughout our history. It is the pioneering of special effects by filmmakers that has revolutionized computer graphics and audio-visual technologies. It's creative artists who launched and improved computer animation – and who have turned it from kids' stuff into groundbreaking art for all ages. From our current development of digital television broadcasting to the growing potential of digital cinema, from the spectacular success of DVDs to our rollout of D-VHS and the spread of DVD-ROM drives in countries around the world, media has been a primary driver of technological progress; and we have no interest in opposing that progress starting now.

→ [ In fact, it would be hard to find an industry that has proven more eager to expand and develop in order to capitalize on emerging technologies than the media business. 25 years ago, motion pictures were viewable in one way: by buying a ticket to sit in a theater. Today films can be watched in movie theaters, on laptops, on video, on DVD, on DVHS, on free-to-air TV, digital cable TV, and on Video on Demand and digital satellite television systems around the world. These myriad options are available at a variety of prices – beginning with free – and are continually tailored to the viewer's convenience. When it comes to the delivery of our content, we can be accused of being a lot of things – relentless and promiscuous are two words that come to mind – but by no stretch of the imagination are we anti-technology. In fact, I'd say the only economic and technological development we haven't embraced is the option of getting ripped off.